

**OPERATIONALIZATION OF
THE SUGGESTIONS
TO TEACH FUNDAMENTAL DUTIES
TO THE CITIZENS OF THE COUNTRY**

INTERIM REPORT

**OF THE
COMMITTEE SET UP
BY THE GOVERNMENT OF INDIA**

JANUARY 30, 1999

Committee Constituted by the Government of India to Operationalize the Suggestions to Teach Fundamental Duties to the Citizens of the Country

Chairman :

Justice J. S. Verma

Members :

Dr. L.M. Singhvi

Dr. Karan Singh

Dr. J. S. Rajput

Dr. Subhash C. Kashyap

Member-Secretary :

Dr. A.K. Sharma

F.No.PS(D)/6-3/FD

January 30, 1999



Dear Minister,

The Committee set up by the Government of India vide its order No.16-23/98-Sch.1 dated 21st July 1998 (Annexure 1), 'to operationalize the suggestions to teach Fundamental Duties to the citizens of the country' held its first meeting on 12th October 1998. It co-opted Dr. Subhash C. Kashyap, Former Secretary-General of Lok Sabha as a Member to avail the benefit of the contribution he had already made in the field. The Committee also resolved to complete the task, as far as possible, within one year of its constitution, i.e., by July 1999.

According to the methodology of work adopted by the Committee, the work has progressed satisfactorily with the academic, secretarial and administrative support provided by the NCERT. It is my pleasant duty to make special mention of the contribution made by Dr. A.K. Sharma, Director, NCERT, as the Member-Secretary of the Committee. This has facilitated and accelerated the performance of our task.

The Committee is of the view that the progress made so far has helped to identify certain areas wherein the requisite direction has been given and the need is only of its proper implementation to achieve the desired result. One such area pertains to directions given and guidelines framed by the Supreme Court under Article 32 with the aid of Articles 141, 142 and 144, reading the fundamental duties in Article 51A within the meaning of the fundamental rights to Equality (Articles 14 to 16) and Freedoms (Article 19) and 'Right to Life (Article 21) in the Constitution of India.

Office : Room No 210, Central Institute of Educational Technology (CIET)
National Council of Educational Research and Training (NCERT)
Sri Aurobindo Marg, New Delhi-110016
Tele : 6519154, 6964712, 6961607 Fax : 6868419

The Committee is of the view that any further delay in implementation to this extent would be detrimental to public interest.

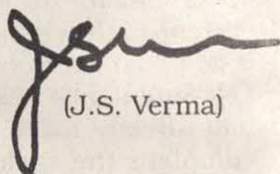
This can be avoided by an Interim Report of the Committee identifying such areas and making corresponding recommendations at this stage to enable the concerned authorities to take the necessary steps forthwith.

Accordingly, this Interim Report is being given to enable the Government of India to initiate prompt action in the light of the recommendations made herein, to achieve the desired objective without any further loss of time. Moreover, the response of the interim-report will also be a relevant factor for consideration before the final report. This perception motivates the Committee to give this Interim Report.

I may add that the Committee hopes to complete the remaining task and give the Final Report within the time frame set by it.

With regards,

Yours sincerely,



(J.S. Verma)

Hon'ble Dr. Murli Manohar Joshi
Union Minister for Human Resource Development
Government of India
Shastri Bhavan
New Delhi 110001

"I learned from my illiterate but wise mother that all rights to be deserved and preserved come from duty well done. Thus the very right to live accrues to us when we do the duty of citizenship of the world. From this one fundamental statement, perhaps it is easy enough to define duties of man and woman and correlate every right to some corresponding duty to be first performed....."

— Mahatma Gandhi

THE CONSTITUTION OF INDIA

PREAMBLE

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a ¹[**SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC**] and to secure to all its citizens:

JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity; and to promote among them all

FRATERNITY assuring the dignity of the individual and the ²[unity and integrity of the Nation];

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do **HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.**

-
1. Subs. by the Constitution (Forty-Second Amendment) Act, 1976, sec.2, for "Sovereign Democratic Republic" (w.e.f. 3.1.1977)
 2. Subs. by the Constitution (Forty-Second Amendment) Act, 1976, sec.2, for "unity of the Nation" (w.e.f. 3.1.1977)

THE CONSTITUTION OF INDIA

Chapter IVA Fundamental Duties

ARTICLE 51A

Fundamental Duties - It shall be the duty of every citizen of India-

- (a) to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
- (b) to cherish and follow the noble ideals which inspired our national struggle for freedom;
- (c) to uphold and protect the sovereignty, unity and integrity of India;
- (d) to defend the country and render national service when called upon to do so;
- (e) To promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;
- (f) to value and preserve the rich heritage of our composite culture;
- (g) to protect and improve the natural environment including forests, lakes, rivers, wild life and to have compassion for living creatures;
- (h) to develop the scientific temper, humanism and the spirit of inquiry and reform;
- (i) to safeguard public property and to abjure violence;
- (j) to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement.

The Committee

- | | | |
|----|---|-------------------|
| 1. | Justice J.S. Verma
Former Chief Justice of India | Chairman |
| 2. | Dr. L.M. Singhvi
Member of Parliament (Rajya Sabha) | Member |
| 3. | Dr. Karan Singh
Member of Parliament (Rajya Sabha) | Member |
| 4. | Dr. J.S. Rajput
Chairman, National Council for
Teacher Education (NCTE) | Member |
| 5. | Dr. Subhash C. Kashyap
Former Secretary-General
of Lok Sabha | Member |
| 6. | Dr. P.H. Sethumadhava Rao
Joint Educational Adviser
Ministry of Human Resource
Development (MHRD)
(Department of Education) | Representing MHRD |
| 7. | Dr. A.K. Sharma
Director, National Council of
Educational Research
and Training (NCERT) | Member-Secretary |

Contents

Letter from the Chairman forwarding the Interim Report	
Mahatma Gandhi on 'Duty'	(i)
The Constitution of India : Preamble	(ii)
The Constitution of India : Chapter IVA:	(iii)
Fundamental Duties	
The Committee	(iv)
1. The Committee, Its Composition and Terms of Reference.	1-3
1.1 Genesis	1
1.2 Composition	2
1.3 Terms of Reference	2
2. Methodology of Work	4-8
Scope of Work	
2.1 Connotation of Terms	4
2.2 Avoiding Dichotomy Between 'We' and 'They'	4
2.3 We, the People of India' - The Spirit of the Constitution	5
2.4 Preliminary Discussion with the Hon'ble Union Minister for Human Resource Development	5
2.5 Issuing Press Release	6
2.6 Survey of Fundamental Duties in School Curriculum	6
2.7 Survey of Fundamental Duties in Non-Formal Education and Adult Education Programmes	6
2.8 Survey of Fundamental Duties in Teacher Education Curriculum	6
2.9 Survey of Fundamental Duties in University Level Courses	7
2.10 Releasing Press Notification	
2.11 Inviting Suggestions from Professionals and Persons of Eminence	
2.12 Seeking Cooperation of States in Implementation	8
2.13 Widening Scope of Interaction	8
2.14 Utilizing Media, Print and Electronic	8
3. Scope of Deliberations	9-17
3.1 The Preamble to the Constitution	9
3.2 The Basic Constitutional Values	9
3.3 Constitutional Obligations	10

3.4	Raison d'etre for Article 51A	10
3.5	Secularism in the Indian Context	10
3.6	Article 51A: Exhortation to Basic Human Values	12
3.7	Fundamental Duties - a Codification of Tasks Integral to the Indian way of Life	12
3.8	Making Inner Life More Human	12
3.9	Human Rights and Human Responsibilities	13
3.10	Standards in Public Life	13
3.11	"The Indian Way"	14
3.12	Internalisation of Fundamental Duties	15
3.13	Target Groups	15
3.14	Role of Media	15
3.15	Documentation of literature on Fundamental Duties and Values	16
3.16	Catch Them Young	16
3.17	Pivotal Role of Teacher Education Institutions	16
3.18	Educating Legislators and Grass-Roots Functionaries	16
3.19	Respect for Environment	16
3.20	National Policy on Education 1986/1992	17
3.21	Summing Up	17
4.	Judicial Decisions Relevant to Enforcement of Fundamental Duties	18-21
4.1	Constitutional Significance	18
4.2	Enforceability of Fundamental Duties	19
4.3	Available Legal Provisions	19
4.4	Summing Up	20
5.	Schemes/Programmes Related to National Integration and Communal Harmony, Culture and Values, and Environment: Clauses (e), (f) and (g) of Article 51A	22-28
5.1	Schemes/Programmes of the Ministry of Home Affairs	22
5.2	Schemes/Programmes of the Ministry of Human Resource Development	22
5.3	Schemes/Programmes of the Ministry of Environment and Forests	24
5.4	Inservice Training Programmes Regarding Protection of Environment and Forests Including Wild life	26
5.5	Optimizing the Benefits from Existing Schemes/ Programmes	27

6. Overview of the Feedback in Response to Invitation Seeking Views and Suggestions	29-33
6.1 Suggestions for Inclusion of Certain Topics/ Themes in the Curricula/ Instructional Materials	29
6.2 Suggestions for Co-curricular Activities	30
6.3 Suggestions for Teacher Training and Teaching-Learning Strategies	31
6.4 Suggestions for Socialisation Process	32
6.5 Some General Suggestions	32
7. Analysis of School Curriculum from the Standpoint of Fundamental Duties	34-37
7.1 Educational Structure	34
7.2 The Context of Curriculum Analysis	34
7.3 Fundamental Duties in NCERT Curriculum	36
8. Analysis of Teacher Education Curriculum from the Standpoint of Fundamental Duties	38-43
8.1 Structure of Teacher Education	38
8.2 Fundamental Duties in Elementary Teacher Education	39
8.3 Fundamental Duties in Secondary Teacher Education	40
8.4 Inservice Teacher Education	40
8.5 Suggestions	40
9. Fundamental Duties in Higher and Professional Education	44-45
10. Tasks Ahead	46-49
10.1 Implementation Overview	46
10.2 Tasks Under Consideration	48
11. Interim Recommendations	50-51

Annexures

1. Order of the Government of India Constituting the Committee	53
2. Text of the Press Release	55
3. Text of the Letter Sent to the Chairperson of the UGC	56
4. Text of the Press Notification	58

5. List of Newspapers Covering the Press Notification	59
6. Text of the Letter from the Chairman of the Committee to Vice-Chancellors\ State Education Secretaries, NGOs, etc.	60
7. Text of the Letter Sent to the Chief Ministers of the States etc., by the Chairman of the Committee	63
8. Inter Action Council	65
9. Directions given in the Decisions of the Supreme Court of India based on Article 51A of the Constitution of India	81

Chapter 1

THE COMMITTEE, ITS COMPOSITION AND TERMS OF REFERENCE

1.1 Genesis

The genesis of the Committee set up by the Government of India "to Operationalize the Suggestions to Teach Fundamental Duties to the Citizens of the Country" is in response to a notice issued to the Union of India and others by Hon'ble Supreme Court of India vide its Order dated 4th May 1998. This notice is based on a letter dated 18th March 1998 from Justice Ranganath Misra, former Chief Justice of India, addressed to the Chief Justice of India, which has been treated as a Writ Petition (Civil) No.239/1998 by the Hon'ble Court. In this Writ Petition, Justice Ranganath Misra has stated that "all of us are experiencing to our horror degrading human behaviour in society every day. The deterioration is gradually becoming sharper and unless this fall is immediately arrested and a remedial measure found out and enforced, the situation would not improve..... Fundamental Duties have remained in the Constitution book and have not come out to reach even the class of people who handle the Constitution:"

It has been further stated in the Writ Petition that "the Constitution within a quarter of a century, brought about a right-oriented society. The Indian approach of ensuring rights through performance of one's duties was totally abandoned. The 42nd amendment brought in Chapter IVA entitled Fundamental Duties, Article 51A in its ten clauses covers several - nay all material - aspects lack of which has been responsible for today's evil. If society becomes duty-based, everyone in India should turn attention on performance of duties and through such performance ensure and be entitled to the rights of a citizen." Justice Mishra has pointed out that "as a nation-building measure, teaching Fundamental Duties in every educational institution and as a measure of inservice training everywhere" is necessary as these "cannot be inculcated in our citizens unless these are brought into their minds and living process through teaching and education." It has also been stated that "it is the obligation of the State to educate the Citizens in the matter of Fundamental Duties so that a right balance between Rights and Duties may emerge."

The Hon'ble court was informed by the Government of India through an Affidavit filed by the Secretary, Government of India, in the Ministry of Human Resource Development (Department of Education), on behalf of all the three respondents, the other two being the Secretary, Ministry of Home Affairs and the Secretary, Ministry of Environment and Forests, that it supported the prayer made in the Writ Petition and set up a Committee to examine all aspects of operationalization of Fundamental Duties for an effective inculcation of the same by the citizens.

1.2 Composition

The Government of India announced the setting up of the following Committee vide Order No. 16-23\98-Sch.1 dated 21st July 1998 (Annexure 1) to study the issue of teaching of Fundamental Duties in its holistic perspective, as is evident from the Terms of Reference stated in 1.3:

- | | |
|--|------------------|
| 1. Justice J.S. Verma
Former Chief Justice of India | Chairman |
| 2. Dr. L.M. Singhvi
Member of Parliament (Rajya Sabha) | Member |
| 3. Dr. Karan Singh
Member of Parliament (Rajya Sabha) | Member |
| 4. Dr. J.S. Rajput
Chairman, National Council for
Teacher Education (NCTE) | Member |
| 5. Dr. A.K. Sharma
Director, National Council of Educational
Research and Training (NCERT) | Member-Secretary |

The Committee subsequently co-opted Dr. Subhash C. Kashyap, former Secretary General of Lok Sabha, to be a member of this Committee. Dr. P.H. Sethumadhava Rao, Joint Educational Adviser, Ministry of Human Resource Development (Department of Education) represented the Government of India on this Committee.

The academic, secretarial, and administrative support to the Committee is being provided by the NCERT.

1.3 Terms of Reference

The Terms of Reference of this Committee are as follows:

- i) To develop a package for teaching Fundamental Duties at

primary, secondary, senior secondary and university levels.

- ii) To decide the activities as part of curriculum and co-curricular activities
- iii) To review the existing programme already being implemented by the NCERT under the National Curricular Framework and the need for identifying additional inputs into it.
- iv) To develop programme packages for pre-service\in-service training of teachers at various levels.
- v) To develop a separate package for the training of citizens through non- formal education\adult education programme\media (print, electronic, etc.)

Chapter 2

METHODOLOGY OF WORK

2 Scope of Work

2.1 Connotation of Terms

The Committee had an indepth discussion on the various Terms of Reference and noted that the word "operationalize" had a potent meaning in that the emphasis of the work of the committee was expected to concentrate on outlining strategies for effective implementation of Fundamental Duties as stated in the various clauses of Article 51A of the Indian Constitution. This also reflected a sense of urgency and expediency in the approach to implementation. The question of operationalizing the "suggestions," indicated that the committee will have to include in the scope of its task views, comments and suggestions from a wide range of citizens to enrich its deliberations. This would also give the task of the Committee a more broadbased national perspective. The "suggestions" could also be interpreted as the recommendations which the committee would formulate in its report. The Committee is to address Fundamental Duties to the "citizens" of the country and, therefore, decided that students at all stages of school education - primary, upper primary, secondary and higher secondary as well as college and university levels would be a major subject of their concern. It would also address such children as unfortunately are still not a part of the formal school system, besides focusing on adults in all walks of life. The Committee realised that a special target group for operationalizing the Teaching of Fundamental Duties would be teachers at all levels, and also a significant intervention would be through mass media including print, electronic, etc.. It will also take into account the directions given in the decisions of the Supreme Court of India based on Article 51A of the Indian Constitution.

2.2 Avoiding Dichotomy Between 'We' and 'They'

The Committee gave due thought to the fact that Article 51A of the Constitution commences with "to abide by the Constitution

and respect its ideals and institutions....." and, therefore, it should be considered how best the concept of Constitution, its ideals and institutions could be introduced in the school curriculum, keeping in view the age of the child and the requirements of relevant pedagogy. The Committee also thought that any attempt at operationalizing the teaching of Fundamental Duties should take into account the dichotomy between 'we' and 'they' in regard to the approach adopted in imbibing the Fundamental Citizenship Duties, as all of us, including those holding public offices, are first and foremost the citizens of this country. *Thus implementation strategy should clearly indicate that to respect Fundamental Duties the onus is on every individual and there is no one who may claim the exclusive authority to teach Fundamental Duties to someone else who alone may be supposed to imbibe these values.* The Committee also felt that clause (a) of Article 51A of the Constitution entails duties even beyond those stated in Article 51A and that Fundamental Rights entail respect for corresponding rights in others.

2.3 "We, the People of India" - The Spirit of the Constitution

The terms 'We, the People of India' have a profound generic meaning imparting directions of citizenship behaviour on the part of all concerned. The Constitution of India promises in its Preamble and more specifically and through subsequent specific provisions, 'the spirit of moderation,' and the 'dignity of the individual' for preserving the Indian ethos and our cultural heritage. This is the spirit which permeates through the Constitution of India and it is the bounden duty of every citizen to preserve and enhance its glory. The conscience of the Constitution can be preserved only by "We, the People of India".

Keeping in view the foregoing paras, the Committee decided on the following methodology for carrying out its tasks.

2.4 Preliminary Discussion with the Hon'ble Union Minister for Human Resource Development

The Committee had a preliminary discussion with Dr. Murli Manohar Joshi, Hon'ble Union Minister for Human Resource Development on 19th September 1998 in which general issues and concerns that should engage the attention of the Committee were identified and possible directions of its work were chalked out. It was perceived that the framework for the Committee's work on operationalization of Fundamental Duties could draw upon Article 51A of the Indian Constitution. It was felt that the Committee should complete the work as early as possible so that the benefit of its deliberations was available to the educational system from the next

academic session. Interventions towards Fundamental Duties for the general citizenry should also be planned simultaneously.

2.5 Issuing Press Release

The Committee decided to issue a Press Release to inform the people of the establishment of the Committee and to invite their views and suggestions towards development of an Action Plan for teaching of Fundamental Duties. The text of the Press Release is given in Annexure 2.

2.6 Survey of Fundamental Duties in School Curriculum

The Committee thought it appropriate to make an assessment of the existing situation of school curriculum with regard to the inclusion of Fundamental Duties as required in the Term of Reference (iii). This exercise was entrusted to the Department of Education in Social Sciences and Humanities of the NCERT. It was felt that such an exercise would enable the Committee to have an appreciation of the existing ground realities as reflected in school curriculum and would enable the Committee to identify gaps that needed to be bridged. It would also give to the Committee an understanding of the adequacy of the treatment given to Fundamental Duties as stated in various clauses of Article 51A, in different areas of school curriculum.

2.7 Survey of Fundamental Duties in Non-Formal Education and Adult Education Programmes

There is a scheme of Non-Formal Education (NFE) for providing education to children of 6-14 years through alternative schooling, using flexibility in curriculum, timings, etc. Financial assistance to the NFE Scheme is provided by the Government of India, which is run through the participation of State governments and Non-Governmental Organisation (NGOs). Similarly, there is a National Literacy Mission (NLM) which operates on a nationwide programme of Adult Education (AE) for the age group 15-35 years. The Committee felt that the extent to which Fundamental Duties are incorporated into NFE and AE programmes should be ascertained from the concerned agencies, as the target groups covered under these programmes constitute an important component of general citizenry.

2.8 Survey of Fundamental Duties in Teacher Education Curriculum

Analogous to the exercise mentioned above, the Committee decided that an indepth survey of Fundamental Duties in teacher

education curriculum at various levels would also need to be examined seriously as ultimately, the success of implementation of Fundamental Duties will rest with the teacher's professional acumen, motivation and competence. The Committee decided to refer this task to the NCTE to come up with a status note on this subject for consideration by the Committee.

2.9 Survey of Fundamental Duties in University Level Courses

In order to provide a complete spectrum of the inclusion of Fundamental Duties at all levels of education beyond the school, it was considered important to have a Status Note on Fundamental Duties as they presently appear in different courses in relevant subjects at the university level. Accordingly, as desired by the Committee, a letter was sent by the Member-Secretary of the Committee to the Chairperson of the University Grants Commission (UGC) requesting for a status position on the subject. (Annexure 3)

2.10 Releasing Press Notification

The Committee observed that the Press Release in itself, though had served a good purpose, the way it appeared in different newspapers, was variously understood by the people. This became evident from several telephonic inquiries and written clarifications sought from the Committee. Accordingly, it was felt that a Press Notification in as many national and regional dailies as possible, covering all languages, would be more appropriate. The text of the Press Notification is given in Annexure 4 and the newspapers in which it appeared in Annexure 5.

2.11 Inviting Suggestions from Professionals and Persons of Eminence

The Committee decided to benefit from the views and suggestions of professionals and persons of eminence in different walks of life. Towards this end, a letter was addressed by Justice J.S. Verma, Chairman of the Committee, to the following:

- i) Secretaries/Commissioners/Directors of School Education/Chairmen of Boards of School Education, Central and State
- ii) Vice-Chancellors of Central and State Universities, including Deemed Universities, and the UGC
- iii) Chairman, All India Council for Technical Education (AICTE)
- iv) Presidents of National Level Teachers' Organizations

- v) Non-Governmental Organizations (NGOs) of proven standing
- vi) Persons occupying positions of eminence

The text of the letter is given in Annexure 6.

2.12 Seeking Cooperation of States in Implementation

The Committee felt that since ultimately the implementation of the tasks related to operationalization of the teaching of Fundamental Duties will largely be the responsibility of the States with the Union of India performing a catalytic role, it would be appropriate to seek their cooperation and involvement in this venture. In this connection a letter was addressed by Justice J.S. Verma, Chairman of the Committee, to the Chief Ministers of the States, etc. The text of the letter is given in Annexure 7.

2.13 Widening Scope of Interaction

The Committee deliberated on whether it should undertake visits to states or invite individuals or groups for interaction and felt that considering the constraint of time for completion of the task, such a strategy may not be feasible. Instead, it decided that whenever and wherever the members of the Committee are invited for talks in connection with some academic/professional/social programmes, the opportunity could be appropriately utilized to share the concerns related to Fundamental Duties. This may in itself serve the purpose of wider interaction by the Committee.

2.14 Utilizing Media, Print and Electronic

The Committee felt that the powerful impact of media, print, radio and television should be fully exploited to transmit messages on Fundamental Duties to all levels of the citizenry. The Ministry of Human Resource Development would be requested to approach the Ministry of Information and Broadcasting to commission Radio and Video spots on this important national need for educating the masses on Fundamental Duties.

Chapter 3

SCOPE OF DELIBERATIONS

In various formal and informal brain storming sessions, the points of view that emerged during deliberations of the Committee have been consolidated as follows:

3.1 *The Preamble to the Constitution:* The Preamble as adopted by the Constituent Assembly spoke of "We, the People of India" having adopted, enacted and given "to ourselves this Constitution", making a solemn resolve to constitute India into a "Sovereign Democratic Republic", securing for all its citizens Justice, Liberty and Equality, and promoting among them all Fraternity. Justice is further defined as social, economic and political. Liberty includes liberty of thought, expression, belief, faith and worship, and Equality means equality of status and of opportunity. The ultimate goal is that of "securing the dignity of the individual and unity of the nation."

The Constitution (Forty-Second Amendment) Act, 1976 added to the Preamble the words 'socialist' and 'secular'. Also, 'unity of the Nation' was amended to read 'unity and integrity of the Nation'. These qualifying terms, it was felt, were generally clarificatory in nature and did not make any substantial difference to the nature of the polity or the State inasmuch as socialism, secularism and national integrity were, according to the lawmakers, already implicit in the Preamble and in the rest of the Constitution as originally framed.

3.2 *The Basic Constitutional Values:* According to the text of the Preamble, as it stands today, the supreme or fundamental constitutional values in which the Founding Fathers believed, which they wanted the future citizens of the Republic to foster among themselves and which, they hoped, would guide all those who, from generation to generation, would be called upon to work the Constitution were:

- Sovereignty
- Socialism

- Secularism
- Democracy
- Republican character
- Justice
- Liberty
- Equality
- Fraternity
- Dignity of the Individual, and
- Unity and Integrity of the Nation

3.3 Constitutional Obligations: Creation of a citizenry conscious of citizenship values including their rights and duties and committed to the principles embodied in our Constitution is a prerequisite to social advancement, economic development and political progress of our country. Therefore, there is need to make conscious efforts to promote an awareness of the constitutional obligations among citizens. The Constitution of India visualises development of a pluralist society based on the principles of equality and social justice. It indicates the nation's resolve to develop a State which is socialistic, secular and democratic in nature. The education system will have to consciously reflect the constitutional obligations through its content and process. It will have to play an important role in preparing the younger generations, in particular, for assuming their roles as constructive and responsible citizens.

3.4 Raison d'etre for Article 51 A: The All India Congress Committee adopted on May 29, 1976 the proposals made by the Swaran Singh Committee which suggested that certain Fundamental Duties and obligations which every citizen owes to the nation should be included in the Constitution. A recommendation was also made that the parliament, by law, provide penalty for non-compliance of these duties. Even though like the Directive Principles contained in Part IV of the Constitution, the Fundamental Duties incorporated in Part IVA are not directly enforceable, yet to ensure their compliance, suitable laws need to be enacted. The Fundamental Duties contained in Part IVA of the Constitution are in consonance with Article 29 (1) of the Universal Declaration of Human Rights which says "everyone has duties to the community in which alone the free and full development of his personality is possible."

3.5 Secularism in the Indian Context: M.C. Setalvad in Patel Memorial Lectures (1965) on Secularism stated thus :

"Secularism in the Indian Context must be given the widest possible content. It should connote the eradication of all

attitudes and practices derived from or connected with religion which impede our development and retard our growth into an integrated nation. A concerted and earnest endeavour, both by the State and citizens, towards secularization in accordance with this wide concept alone can lead to stabilization of our democratic state and the establishment of a true and cohesive Indian nationhood."

Dr. Shanker Dayal Sharma, as the then Vice-President of India while delivering Dr. Zakir Hussain Memorial Lecture at Visva Bharati, Santiniketan on April 21, 1989 said :

"We in India, however, understand secularism to denote 'Sarva Dharma Sambhava' : an approach of tolerance and understanding of the equality of all religions..... . This philosophical approach of understanding, co-existence and tolerance is the very spirit of our ancient thought..... ."

The cohesive nature of the state wherein 'unity in diversity' is the core value, the citizens should constantly be reminded to preserve this value. By the Constitution (Forty-second Amendment) Act, 1976, the word 'Secular' was inserted in the Preamble and simultaneously Chapter IVA containing Article 51A was also inserted into the Constitution. The growing divisive tendencies was the occasion for emphasis on the secular nature of the Indian polity. The concept of secularism in India is not being irreligious or atheistic, but emphasizes one where the state has no religion and seeks respect for all religions with freedom to every citizen to profess, practice and propagate the religion of her/his belief.

The meaning of Indian Secularism was indicated again by the Supreme Court in Dr. M. Ismail Farouqi (Ayodhya case), AIR 1995, S.C. 605, as under:

"It is clear from the constitutional scheme that it guarantees equality in the matter of religion to all individuals and groups irrespective of their faith emphasising that there is no religion of the State itself. The Preamble of the Constitution read in particular with Articles 25 to 28 emphasises this aspect and indicates that it is in this manner the concept of secularism embodied in the Constitutional Scheme as a creed adopted by the Indian people has to be understood while examining the Constitutional validity of any legislation on the touchstone of the Constitution. The concept of secularism is one facet of the right to equality woven as the central golden thread in the fabric depicting the pattern of the scheme in our Constitution."

3.6 *Article 51A: Exhortation to Basic Human Values:* Framers of the Indian Constitution were such visionaries as had practised values in life discharging their societal and national obligations and had followed noble ideals which had inspired our national struggle for freedom and the need to defend the country, promote harmony, secularism and preserve the rich heritage of the composite Indian Culture. To the framers of the Constitution, these were basic and inherent values to be practised by each and every one. Initially nurtured in the home through tradition and subsequently supplemented by education in schools, colleges and universities, these were integral part of the way of life in India and it was taken for granted that aberrations in the practice of these will not be acceptable in the society. As such no need was felt to incorporate the Fundamental Duties specifically in the Constitution. It was also presumed that these would be covered under basic values inherent in the constitutional promise in the Preamble to the Constitution of India.

3.7 *Fundamental Duties - a Codification of Tasks Integral to the Indian way of Life:* Constitutional amendment concerning Fundamental Duties indicated the urgency to act, as Article 51A comprise such aspects as cannot be ignored any more. These have to be paid immediate and urgent attention by the systems in existence as well as by the individuals in the society. Essentially all that is contained in the Fundamental Duties is just a codification of tasks integral to the Indian way of life. A close scrutiny of the clauses of Article 51A would indicate that a number of these basically refer to such values as have been a part of the Indian tradition, mythology, religions and practices. At this juncture of history, the nation realises an urgent need to re-emphasise these in a manner that would be acceptable to and be imbibed by all generations. To achieve these objectives, *it would be essential to create public awareness of the need to appreciate and internalise the concept and practice of Fundamental Duties with particular emphasis on the necessity of creating a harmonious society with a scientific outlook, free from tensions and turmoils.*

3.8 *Making Inner Life More Human:*

"If one were to ask me which literature would give us back (us Europeans, who have been exclusively fed on Greek and Roman thought...) the necessary equilibrium in order to make our inner life more universal, in short, more human, a life not only for this life, but for a transformed and eternal life, once again I would indicate India. Philosophy in India is what it ought to be, not the

denial but the fulfilment of religion: It is the highest religion; and the oldest name of the oldest system of philosophy in India is Vedanta that is, the end, the goal, the highest object of the Vedas." (Max Müller)

3.9 Human Rights and Human Responsibilities: The core Indian value is 'Unity in Diversity' which binds different segments of the people of India to work together for the common constitutional purpose of formation of a welfare state in a democratic republic. *Time has come for study of human rights philosophy, not in isolation but with human responsibilities which are its complement. Every right gives rise to corresponding duty and vice versa.* Some obligations are general civic duties. When everyone has the same rights, its enforcement is possible only when others respect them. There is a felt need for a charter of human responsibilities as complement to the charter of human rights. The Inter-Action Council comprising of eminent persons has proposed to the United Nations (UN) a draft - '*A Universal Declaration of Human Responsibilities*,' dated 1st September 1997. (Annexure 8) The basic premise of the draft is: 'human aspirations for progress can only be realized by agreed values and standards applying to all people and institutions at all times,' 'to aim at the greatest amount of freedom possible, but also to develop the fullest sense of responsibility that will allow that freedom itself to grow,' and 'freedom without acceptance of responsibility can destroy the freedom itself, whereas when rights and responsibilities are balanced, then freedom is enhanced and a better world can be created.' The Preamble in the proposed draft reaffirms faith in recognition of the inherent dignity and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world which implies obligations or responsibilities. It advocates teaching and promotion of awareness and acceptance of these responsibilities throughout the world. The Articles in the draft are classified: Fundamental Principles of Humanity; Non-Violence and Respect for Life; Justice and Solidarity; Truthfulness and Tolerance, and Mutual Respect and Partnership. The meaning of 'Human Rights' requires such a wide comprehension. It is, therefore, obvious that the proper synthesis of the human rights philosophy with that of human responsibilities is essential for effective realisation of the rights of the human family.

3.10 Standards in Public Life: It is the duty of every citizen to obey the constitutional mandate. Every holder of a public office has, superadded to his duties as a citizen the additional duties imposed

by virtue of the office she\he holds. Sensitivity of all enforcement agencies is essential for realising the promise held out in the Constitution. It is important to draw our attention to '**The Seven Principles of Public Life**' contained in the First Report of the UK's Committee on Standards in Public Life - Vol. I by Lord Nolan-Chairman, which are reproduced below:

"Selflessness: Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves., their family, or their friends.

Integrity: Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations, that might influence them in the performance of their official duties.

Objectivity: In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability: Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness: Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty: Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership: Holders of public office should promote and support these principles by leadership and example.

(These principles apply to all aspects of public life. The Committee has set them out here for the benefit of all who serve the public in any way.)"

3.11 *The Indian Way:*

"At this supremely dangerous moment in human history (it is still so), the only way of salvation is the Indian way. Emperor Ashoka's and Mahatma Gandhi's principle of non-

violence and Sri Ramakrishna's testimony to the harmony of religions: here we have the attitude and the spirit that can make it possible for the human race to grow together into a single family.... "Vasudeiva Kutumbakam." (Arnold Toynbee)

3.12 *Internalisation of Fundamental Duties:* The scope of the proposed efforts for inculcation of Fundamental Duties should also enhance societal values as these would keep a check on the practices of the younger generations and wherever necessary would guide them effectively with compassion and empathy. Societal approbation is always much stronger than legal sanctions. A significant intervention will be education of children through right curricula and effective preparation of teachers to handle these curricula. *Preparation of teachers, through well designed teacher education programmes, would actually play a very significant role in ensuring, understanding and internalisation of Fundamental Duties in our schools and communities.*

3.13 *Target Groups:* Each and every individual can contribute much more effectively with an individual understanding of the duties in one's own station in life. An understanding of how to operationalize the concept and duties individually shall have to be elaborated and individuals assisted to do so on their own. Various aspects of the values related to Fundamental Duties have remained neglected in adult education and this sector can play a major role. Teaching of Fundamental Duties to children who are not a part of formal school and adults in the age group of 15-35 years, also require attention. Whatever strategies finally emerge must emphasise activities, practical training and interactive modalities. *Learning when it is enjoyable and pleasant is much more effective and lasting and this approach should be the guiding principle for designing any Plan of Action on the teaching of Fundamental Duties.*

3.14 *Role of Media:* The role of media, print and electronic, to the extent it can provide support to the concerns of the class room in schools, colleges and universities, and also education of the general citizenry needs to be exploited to create an impact on the minds of citizens to nurture Fundamental Duties in their lives. *It should be upto Doordarshan, and, if possible, private TV channels beaming programmes to India, to prepare a two-minute video spot which presents and illustrates the ten duties in the background of proper music and the national flag. This should become a regular feature atleast on all Doordarshan Channels around the country*

once or twice a day to have significant impact over the years.

3.15 *Documentation of literature on Fundamental Duties and Values:* All national and international documents, reports and write-ups on Fundamental Duties and Values that may be relevant to the work of the Committee should be collected, studied and a compilation attempted.

3.16 *Catch Them Young:* While teaching Fundamental Duties to the citizens of the country, it would involve atleast three dimensions. Firstly, attention is to be paid to the educational curricula including the school and college levels. *Here the text of the 'Fundamental Duties in the Constitution which spells out briefly but clearly the ten duties expected of all citizens should be included in the appropriate textbooks at all levels and in all regional languages.* Apart from the text, it will be necessary for the teachers to highlight the significance of these Fundamental Duties so that the younger generations can absorb them from their childhood.

3.17 *Pivotal Role of Teacher Education Institutions:* Secondly all teacher education institutions in the country should be fully aware of the Fundamental Duties so that teachers trained by them can explain them properly to the students. The NCERT, the NCTE, the National Institute of Educational Planning and Administration (NIEPA), and other institutions around the country should organise seminars in various parts of the country to acquaint the teachers with this dimension.

3.18 *Educating Legislators and Grass-Roots Functionaries:* Thirdly special efforts should be made to ensure that our legislators are aware of these duties as the same are also their duties as citizens, which at present does not seem to be the case. This would mean special programmes at the parliamentary and state assembly levels. The Corporations, Town Area Committees and the Panchayati Raj institutions should also be involved as they alone can take the message down to the grass roots.

3.19 *Respect for Environment:* Serious environmental pollution results from vehicular pollution, industrial pollution, degradation of forests including destruction of bio-diversity, flora and fauna. It poses a serious threat to survival of the human race. The principle of Sustainable Development needs urgent application to preserve the depleted natural resources for future generations. This is the demand of the Doctrine of Trust which emphasises that *there is no*

ownership in natural resources and that every generation should make a judicious use of them, as trustee for the future generations. Co-ordination between all the law enforcement agencies is essential to achieve the desired result. The Constitution of India lays emphasis on this aspect by enacting Article 48A as a Directive Principle of State Policy and Article 51A (g) as a Fundamental Duty of every citizen.

3.20 *National Policy on Education 1986/1992:* A significant exhortation in the National Policy on Education (1986) with modifications undertaken in 1992 incorporates the basic spirit of Article 51A and reads thus: "The National System of Education will be based on a national curricular framework which contains a common core along with other components that are flexible. The common core will include the history of India's freedom movement, the constitutional obligations and other content essential to nurture national identity. These elements will cut across subject areas and will be designed to promote values such as India's common cultural heritage, egalitarianism, democracy and secularism, equality of the sexes, protection of the environment, removal of social barriers, observance of the small family norm and inculcation of the scientific temper. All educational programmes will be carried on in strict conformity with secular values."

3.21 *Summing Up:* Against the conceptual backdrop of such deliberations, the Committee applied its mind to a multiplicity of issues concerning Fundamental Duties. It took stock of some of the judicial decisions relevant to enforcement of Fundamental Duties, studied schemes\programmes related to National Integration and Communal Harmony, Culture and Values, and Environment as already in operation. It undertook analysis of school curriculum, programmes of Non-Formal and Adult Education, as well as teacher education curriculum from the standpoint of Fundamental Duties and also attempted ascertaining the status of Fundamental Duties in higher and professional education.

Chapter 4

JUDICIAL DECISIONS RELEVANT TO ENFORCEMENT OF FUNDAMENTAL DUTIES

4.1 Constitutional Significance

In addition to reminding the citizens of the duties they owe to the nation, these provisions together with the Fundamental Rights in Part III and the Directive Principles in Part IV of the Constitution of India form a compendium and have to be read together. Read together, the Fundamental Rights become meaningful and can ensure "All Human Rights for All." Moreover, in determining not only the meaning of law in the statute but also its constitutionality, the Fundamental Duties are significant inasmuch as any law in consonance with it would be considered to be reasonable to uphold its constitutional validity. *The Supreme Court of India has in several cases relied on Fundamental Duties contained in Article 51A to determine the duty of the State and when necessary given directions or frame guidelines to achieve the purpose. This has been done in several cases relating to preservation and conservation of environment, ecology, and prevention of degeneration of forests, wild life, flora and fauna, etc., The principle of sustainable development, striking a balance between development and preservation of natural resources, has been possible by reading the Fundamental Rights in Article 14 and 21 with the Directive Principle in Article 48A and the Fundamental Duties in Article 51(g). The court has observed that preservation of environment and maintenance of the ecological balance are the responsibility not only of the Government but also the Fundamental Duty of every citizen. The judicial creativity by the Supreme Court is in exercise of its power under Article 32 read with these Fundamental Rights along with Directive Principles and Fundamental Duties with the aid of Article 142 of the Constitution. In the Vishaka vs State of Rajasthan (AIR 1997 - SC 241), by similar exercise, elaborate guidelines have been framed to ensure gender justice and realise the concept of gender equality and prevent sexual harassment of women in all*

work places through the judicial process, to fill the existing vacuum in legislation. Other significant decisions in this sphere should also be studied as reference guidelines towards implementation (Annexure 9).

4.2 Enforceability of Fundamental Duties

It is, therefore, no longer correct to say that the Fundamental Duties incorporated in Article 51A of the Constitution are a mere reminder to the citizens with no enforceability to ensure their compliance. These duties are not only sacrosanct but also have the element of compulsion requiring obedience, provided the machinery of the state appreciates its true nature and motivates the implementation machinery towards this end. The need, therefore, is to enact suitable legislation wherever necessary to require obedience of the obligations by the citizens, if need be with legal sanctions. No doubt, there is deficiency in the field of legislation inasmuch as the entire sphere of citizens' duties is not covered by directive legislation. While there is need for comprehensive legislation in this area, even the existing legislation is ineffective because of want of proper implementation. *The primary need, therefore, is to ensure a faithful and effective implementation of the existing legislation in the area covered by legislation and for prompt measures to legislate in the remaining field to fill the legislative vacuum.* Several areas wherein there is an urgent need for effective legislation have been identified by the Supreme Court in some of its decisions. This is the paramount need "to operationalise the suggestions to teach Fundamental Duties to the citizens of the country" because the judicial decisions of the Supreme Court have the force of law and also require legislative action.

4.3 Available Legal Provisions

The Committee was conscious of the fact that any non-operationalization of Fundamental Duties might not necessarily be because of lack of concern or non-availability of legal and other enforceable provisions; but, it is more a lacunae in the strategy of implementation. It, therefore, thought it appropriate to list in brief some of the legal provisions already available in regard to enforcement of Fundamental Duties. A summary of such legal provisions is given below:

- (a) In order to ensure that no disrespect is shown to the National Flag, Constitution of India and the National Anthem, the *Prevention of Insults to National Honour Act 1971* was enacted.
- (b) *The Emblems and Names (Prevention of Improper Use) Act*

1950 was enacted soon after independence, inter alia, to prevent improper use of the National Flag and the National Anthem.

- (c) In order to ensure that the correct usage regarding the display of the National Flag is well understood, the instructions issued from time to time on the subject have been embodied in *Flag-Code India* which has been made available to all the State Governments and Union Territory Administrations.
- (d) There are a number of provisions in the existing criminal laws to ensure that the activities which encourage enmity between different groups of people on grounds of religion, race, place of birth, residence, language, etc., are adequately punished. Writings, speeches, gestures, activities, exercises, drills, etc. aimed at creating a feeling of insecurity or ill-will among the members of other communities, etc., have been prohibited under *Section 153A of the Indian Penal Code (IPC)*.
- (e) Imputations and assertions prejudicial to the national integration constitute a punishable offence under *Section 153 B of the IPC*.
- (f) A Communal organisation can be declared unlawful association under the provisions of *Unlawful Activities (Prevention) Act 1967*.
- (g) Offences related to religion are covered in *Sections 295-298 of the IPC (Chapter XV)*
- (h) Provisions of the *Protection of Civil Rights Act, 1955*; (earlier *The Untouchability (Offences) Act 1955*)
- (i) *Section 123(3) and (3A) of the Representation of People Act, 1951* declares that soliciting of votes on the ground of religion and the promotion or attempt to promote feelings of enmity or hatred between different classes of citizens of India on the grounds of religion, race, caste, community or language is a corrupt practice. A person indulging in a corrupt practice can be disqualified for being Member of Parliament or State Legislatures under *Section 8A of the Representation of People Act*.

4.4 Summing Up

The Committee noted that a number of judicial decisions are available towards enforcement of certain clauses of Article 51A. What is needed to be operationalized is compliance of the provisions of the various Acts. This is particularly true of clauses (a), (c), (e), (g) and (i) (Also see Chapter 5). The remaining clauses are exhortation of basic human values and have to be developed amongst citizens

in a variety of ways. The education system has to create proper and graded curricular inputs from early years of education to the higher and professional levels of education. There is no finality in this case but a continuum of efforts in achieving the objectives related to the values underlying the clauses. They require a constant reminder to every citizen to continue to strive towards display of better and better citizenship behaviour so necessary for a patriotic fervour. These aspects are to be nurtured through educational programmes, through informal, non-formal, formal and media interventions and will be discussed in subsequent parts of the Report.



Chapter 5

SCHEMES/PROGRAMMES RELATED TO NATIONAL INTEGRATION AND COMMUNAL HARMONY, CULTURE AND VALUES, AND ENVIRONMENT:

Clauses (e), (f) and (g) of Article 51A

During the deliberations of the Committee, it was felt that an effort should be made to find out existing schemes and programmes of the Government of India which support and promote activities related to national integration and communal harmony, culture and values, and environment. It was learnt that the Ministry of Home Affairs, the Ministry of Human Resource Development in their Department of Education and Department of Culture, and the Ministry of Environment and Forests have certain schemes/programmes for promotion and nurturance of several aspects which have a bearing on clauses (e), (f) and (g) of Article 51A on Fundamental Duties. Accordingly, these schemes and programmes have been studied for their contribution towards operationalization of the Fundamental Duties amongst the citizens of the country. A brief overview of these schemes\ programmes is indicated below:

5.1 Schemes\Programmes of the Ministry of Home Affairs

Ministry of Home Affairs extends financial grants to voluntary organisations to take up programmes for the promotion of National Integration and Communal Harmony. A National Foundation for Communal Harmony has also been set up to promote Communal Harmony. A National Award known as Communal Harmony Award is awarded to an individual and one organization every year for their services in promoting Communal Harmony. Ministry of Home Affairs have issued guidelines to all States\UTs to observe Communal Harmony Day on 22nd October.

5.2 Schemes\Programmes of the Ministry of Human Resource Development

The Ministry of Human Resource Development in their Department of Education and Department of Culture have certain

grant-in-aid schemes for promoting Fundamental Duties as reflected in the clauses (f) and (g) of Article 51A. Of significance to mention are the following schemes:

a) Scheme of Environmental Orientation to School Education:

The overall aim of this scheme is to promote experimentation and innovation, and to complement in diverse ways the scheme to be implemented by the State Governments, for the achievement of the goals spelt out in the National Policy on Education for creating environmental consciousness among students. Within this overall aim, the specific objective of the scheme is to provide financial assistance to suitable voluntary agencies for undertaking the following kinds of activities:

- i. Development of locale-specific teaching-learning materials (e.g., books, brochures, posters, maps, charts, audio and video cassettes, etc.)
- ii. Action research\experimental\innovative activities with the objectives of environmental orientation in a particular area;
- iii. Training\orientation of teacher educators, teachers, and other educational personnel of an area to help them in relating instruction to local environment and environmental issues, and in adopting innovative practices for the purpose;
- iv. Innovative programmes to relate activities of students under the work experience in schools with the local environmental concerns; and
- v. Involvement of other voluntary agencies, social activist groups, individuals and the community at large in the furtherance of the objectives of environmental orientation to education.

b) Scheme of Assistance for strengthening Culture and Values in Education: The scheme spells out the cultural perspective in education and to bridge the schism between the formal system of education and India's rich and varied cultural traditions. The scheme also aims at strengthening cultural and value education inputs in the school and non-formal education system, and the in-service training of art, craft, music and dance teachers.

c) Scheme for Non-Formal Education: This scheme provides financial assistance to voluntary agencies for taking up projects to provide education to children in the age group of 6-14 years, who remain outside the formal system of education owing to various socio-economic constraints and also to provide an alternative strategy of education comparable to the formal school system, to girls, working children, school dropouts and children from habitations without schools.

5.3 Schemes\Programme of the Ministry of Environment and Forests

Out of the ten Fundamental Duties included in Article 51A, clause (g) makes it a duty of every citizen of India "to protect and improve the natural environment including forests, lakes, rivers and wild life and to have compassion for living creatures." The Ministry of Environment and Forests through its various schemes\programmes\activities attempts to inculcate a sense of responsibility, love and respect among all sections of our society for the natural environment including forests, lakes, rivers and wildlife and the need to protect and preserve it — for now and for prosperity — through non-formal methods of education. During the past 18 years of its existence, several initiatives have been taken and a variety of schemes and programmes have been launched to cover all sections of our society — whether inside or outside the formal system of education.

(a) National Environment Awareness Campaign is being organised every year with the objective of creating consciousness about the environment among the masses. A large number of NGOs, Schools, Colleges, Universities, Women and Youth organisations, State Government Departments, etc., from all over the country are provided financial assistance for organising awareness creating activities such as rallies, *padyatras*, public meetings, debate\essay\painting competitions, folk songs and dances, street theatre, etc., on environmental themes. All possible target groups ranging from students\youth\teachers to tribals, rural population, professions, etc., are covered under this annual campaign. During 1997-98, a total of 3552 organisations were supported at a total cost of Rs.2.17 crores, covering the entire country.

(b) Eco/Nature Clubs at Schools: Realising the importance of students who are the future citizens of the country, the Ministry has been supporting Eco\Nature clubs at schools to develop love and compassion among the young children for Nature, so that they grow up to be environmentally literate citizens.

(c) 'Paryavaran Vahini': In 1992-93, a scheme called 'Paryavaran Vahini' was launched to create environmental consciousness and to encourage involvement of people (through active participation) in the protection of environment and forests. At present it is proposed by the Ministry to constitute one Vahini for each district. Till now, 195 districts have been selected and Vahinis have been constituted in 144 districts.

(d) Commissioning the Production of Films on Various Aspects of Environment, Forests and Wild life: Realising the power of the

electronic media in reaching out to people, Ministry of Environment and Forests has been commissioning the production of films on various aspects of environment, forests and wild life. A total of 84 films have been produced so far, out of which several have been telecast by Doordarshan through the National Network as well as through the Regional Kendras from time to time.

(e) Centres of Excellence on Different Areas of Environment and Forests for Strengthening Awareness, Research and Training: The Ministry has a major scheme of setting up Centres of Excellence on different areas of environment and forests for strengthening awareness, research and training. Two centres have been set up exclusively for environment education and awareness creation, namely, the Centre for Environment Education, Ahmedabad and the CPR Environment Education Centre, Chennai. The objective of both the Centres is to promote environment education, awareness and consciousness throughout the country.

(f) National and Regional Museums of Natural History have also been set up in different parts of the country to promote non-formal environment education and to create environmental awareness among the people. These Museums are extremely popular among school teachers and students and are used by them to supplement the class-room teaching relating to nature and natural resources.

(g) Awards and Fellowships: The Ministry has instituted several awards and fellowships to encourage, recognise and reward people's participation and contribution to environmental protection. There are at present nearly 10 such awards/fellowships covering practically all different target groups such as schools, village panchayats, private and public corporations, district level government departments, individuals, NGOs, government employees, etc..

(h) National Afforestation and Eco-Development Board: The National Afforestation and Eco-Development Board, functioning under the Ministry, also undertakes several activities for creating awareness specifically about forests, afforestation and the need to protect forests. The Board has so far produced 12 films which have been distributed to the State Forest Departments, the Regional Centres of the Board and some NGOs. These organisations screen these films from time to time to spread the message of environmental protection. The Board offers two awards to encourage people to undertake activities relating to afforestation and wastelands development. The Board has also set up Ecological Task Forces of ex-servicemen to undertake ecological restoration work in certain highly degraded and fragile areas.

(i) National River Conservation Directorate: The National River Conservation Directorate which is implementing the National River Conservation Plan, gives importance to the involvement of the people in all its river cleaning programmes. Under the Ganga Action Plan, several thousands of people took part in programmes such as Ganga Seva Shivir, Padyatras, Exhibitions, Shramdaans and Ghat Cleaning Campaigns organised in different towns along the river Ganga. The main objective of these programmes is to awaken the citizens to their duty of keeping the river clean and to encourage them to participate in the efforts of the government to clean the river. School children have been specially involved in monitoring of the river water quality, through specially designed testing kits, distributed free of cost to them.

(j) The Biosphere Reserves Programme, the Wet lands and Lakes Conservation, the River Conservation Programmes, Project Tiger, Project Elephant, and other protected areas programme and several forestry programmes - all include an education and awareness creating component aimed at making people realise their duties towards environment as well as their right to a clean and healthy environment.

5.4 Inservice Training Programmes Regarding Protection of Environment and Forests Including Wild life

(a) *The Indian Council of Forestry Research and Education, Dehradun* organises several training programmes in the field of forestry education, management and research, besides offering Ph.D., P.G. Diplomas and offer certificate courses in various fields of forestry. The Council organises training programmes for farmers, State Forest Departments, executives of industries, etc.,

(b) *Indira Gandhi National Forest Academy, Dehradun* imparts a wide range of in-service professional training to the Indian Forest Service personnel.

(c) *Directorate of Forest Education, Dehradun*, provides training to State Forest Service personnel and Forest Rangers. It runs several State Forest Service Colleges and Forest Rangers' Colleges all over the country specifically for providing in-service training relating to forestry.

(d) *Indian Institute of Forest Management, Bhopal*, provides in-service training to personnel from the Indian Forest Service, Forest Departments, Forest Development Corporations and Forest related industries.

(e) *Indian Plywood Industries Research and Training Institute, Bangalore* provides training specifically in saw milling and plywood.

- (f) *The Wildlife Institute of India, Dehradun, imparts training to Government and Non-Government personnel on conservation and management of the wildlife resources of the country. It also offers several degree, diploma and certificate courses to a wide range of in-service personnel as well as students.*
- (g) *Centres of Excellence offer a wide range of long-term and short-term training courses to in-service personnel from the Government, industries, NGOs etc.*
- (h) *The Lal Bahadur Shastri National Academy of Administration, Mussoorie, Indian Institute of Public Administration, New Delhi, Administrative Staff College of India, Hyderabad and Indian Institutes of Management at Ahmedabad, Bangalore, Calcutta, etc. have included environmental and forestry components in the existing training programmes being organised by these premier management institutions.*
- (i) *The Central and State Pollution Control Boards also organise in-service training programmes from time to time for industry personnel.*
- (j) *The Ozone Cell of the Ministry of Environment and Forests organises specialised training programmes for personnel of industries.*

5.5 Optimizing Benefits from the Existing Schemes/ Programmes

After going through the existing schemes/programmes of the concerned Ministries dealing with national integration and communal harmony, culture and values, and environment, the Committee got a feel of the various schemes/programmes in the above areas. In the absence of any definitive evaluation available on these schemes/programmes, it was not possible to comment on the precise impact they have produced in the system. From the information available to the Committee it appears that significant amounts are allocated by the concerned Ministries to implement these schemes, which are largely operated through the NGOs. It would, therefore, be important that the Ministries ensure an effective implementation of the existing programmes so that through them implementing the intent of clauses, (e), (f) and (g) of Article 51A is facilitated to achieve the desired objectives of creating a proper value system among the citizens. The Committee feels that the success of implementation of the schemes will, no doubt, depend on the commitment of the NGOs whose work may need constant monitoring by the concerned ministries so that those whose contributions to national integration and communal harmony,

culture and values, and environment have been impressive are encouraged to further widen the scope of their work. While approving the financial assistance to the NGOs, the focus of their programmes must deal with aspects of national integration and communal harmony, culture and values, and environment which are in tune with the spirit of clauses (e), (f) and (g) of Article 51A. *The Committee feels that definitive evaluation of the work done under the existing schemes/programmes would be desirable.*

Chapter 6

OVERVIEW OF THE FEEDBACK IN RESPONSE TO INVITATION SEEKING VIEWS AND SUGGESTIONS

With the objective of inviting views and suggestions from the citizens of India about teaching of Fundamental Duties, a press release was issued on 17th October 1998. Several letters containing views and suggestions were received in response to the press release. The respondents included advocates, professors, professionals, government servants and voluntary agencies.

Later on, Justice J.S. Verma, Chairman of the Committee, sent communications to eminent personalities in all walks of life, the Vice-Chancellors of Universities and certain NGOs/Institutions, seeking their views and suggestions. By the end of December 1998, feedback was received from a number of universities and institutions\organisations, etc.,

The Committee also gave a Press Notification in several national and state level newspapers in November 1998. In response to this notification, the communications received by 31 December 1998 have also been studied.

A synthesised overview of the suggestions received so far is given below in a synoptic fashion. *It may be noted that the suggestions are as they have been received and the Committee will examine them to understand what can be incorporated in the Report for implementation.*

6.1 Suggestions for inclusion of certain Topics/Themes in the Curricula/ Instructional Materials

- Value-based lessons
- Studies on moral values
- Ethical teachings of all religions
- Traditions and ethics of Indian culture
- Biographies of the builders of modern India (inter alia to promote harmony and to eliminate obscurantism, dogmatism, religious fanaticism and sectarianism)

- Salient features of the Constitution and its ideals in Social Studies and Civics curricula. In case Civics is not a compulsory subject, Fundamental Duties may be included in one compulsory language subject.
- Noble ideals which inspired our national struggle for freedom
- Upholding and protecting the sovereignty, unity and integrity of India to be emphasized through Social studies, History and Political Science curricula• Promoting the concept of gender justice in the curricula and instructional materials
- Developing scientific temper, humanism and spirit of inquiry and reform
- Promoting the ideals of non-violence and compassion
- Environmental protection, conservation and management
- Several issues inspired by or in tune with Fundamental Duties are already an integral part of the curricula at various levels of education. They need to be strengthened along with the induction of related themes. It would be helpful to make a concrete assessment of the situation on the ground through status analysis to find out gaps that may need to be bridged.
- The UGC may suggest a Foundation Course on Fundamental Duties in the colleges/universities.
- Some suggested non-credit courses at under-graduate level are:
 - Study of Environment
 - Introduction to Indian Heritage
 - Introduction to National Movement

In case a separate course on Fundamental Duties is not feasible, the Fundamental Duties may form the content of some other subjects taught at the college/university level.

- Fundamental Duties need to be built in as integral component of curricula at all stages; the existing textbooks/modules of instruction, etc., may be reviewed.
- Highlight in textbooks and print and electronic media constructive and developmental work that is going on in the country.
- Serious thought need to be given to make Yoga and Meditational Practice as integral part of curriculum from early stage.

6.2 Suggestions for Co-curricular Activities

- Organise competitions, interactions (seminars, symposia,

workshops, orientation programmes), fairs, festivals, etc., on issues concerning the Fundamental Duties.

- Organise National Integration Camps for school, college and university students.
- Make NCC more effective at all levels of school and college education
- Give additional weightage to NCC cadets in joining the Defence Services and Para Military Forces.
- Recast the National Service Scheme (NSS) and orient the NSS students to participate in:
 - Management of disasters (floods, cyclones, earthquakes, epidemics)
 - Environmental protection, conservation and management.
 - Programme and activities of NLM/NFE
 - Social welfare activities such as old age care
 - Promoting harmony and spirit of brotherhood amongst the people of different communities
 - Provide better facilities and incentives to the NSS personnel
 - Involvement in certain community\social service projects especially in rural settings.
 - Make either NCC or NSS compulsory during the concerned career of study.

6.3 Suggestions for Teacher Training and Teaching-Learning Strategies

- Develop Teachers' Handbooks, suggesting weaving of Fundamental Duties in the curricular and co-curricular material/work at all stages of education, including teacher education.
- Impart effective in-service training to the school and college teachers, the NFE personnel, the Open\Distance Education teachers, and the Adult Education functionaries about teaching of Fundamental Duties. Seminar, symposia and workshops may also be organised for imparting training to teacher trainees.
- Make compulsory listening to educational broadcasts and telecasts and reading of news articles pertaining to Fundamental Duties. Guidelines in this regard may be prepared and disseminated. Orientation programmes may also be organised in this regard.

6.4 Suggestions for Socialisation Process

People need to be socialised through family, neighbourhood, school, university and other groups/institutions about essentials of Fundamental Duties. Appropriate strategies in this context need to be planned and operationalized. Among others, parents, teachers and other social actors may be encouraged to discharge properly their role as socialisers, for example,

- A pool of experts drawn from constitutionalists, social workers, legal profession, educationists and non-political opinion leaders may be formed to regulate the direction of the programmes related to Fundamental Duties.
- NGOs may be given training in the essentials of Fundamental Duties and modus operandi to propagate the same to people in the society .
- The Law Commission may suggest as to how best Fundamental Duties could be legally enforced.
- A Monitoring Committee or an Ombudsman may be established to monitor from time to time the implementation of the Fundamental Duties.
- A sort of oath/pledge about Fundamental Duties may be made compulsory/ obligatory in the society.
- Expose the citizens to the ancient texts that reflect the spirit of Fundamental Duties.

6.5 Some General Suggestions

- Develop a comprehensive questionnaire for the heads of educational institutions (school, college and university level, chiefs of professional associations and Public Relations Officers in the corporate sector and obtain feedback in order to assess :

- the prevailing level of public awareness of the nature and ramifications of Fundamental Duties
- the way each respondent visualises his/her notion of Fundamental Duties
- the level of collective/individual concern about various forms of non- performance of Fundamental Duties
- attitude towards remedial/corrective measures against those found seriously wanting in their performance of Fundamental Duties

The homes, educational institutions, offices and their places of work should all be made centres of imparting education in the performance of their duties and obligations. Everyone, more particularly young men and women, needs to be sensitised to the current issues related to Fundamental

Duties. A suggestion is that the first Monday of January every year should be observed as 'Fundamental Duty Day' all over the country.

- Given the mixed character of Fundamental Duties, a differential approach needs to be employed towards their furtherance and realisation.
- To make security in government jobs dependent on observance of Fundamental Duties by making suitable provisions in service rules for the purpose.
- Reward those who are doing their duties sincerely. Punish those who abuse Fundamental Rights, neglect their duties, and abuse power.
- Increase the accountability of teachers and others managing the system.
- Inspiring leaders and teachers who can set the right example through their own lives is the need of the hour. Importance of good role models cannot be underestimated.

Chapter 7

ANALYSIS OF SCHOOL CURRICULUM FROM THE STANDPOINT OF FUNDAMENTAL DUTIES

7.1 Educational Structure

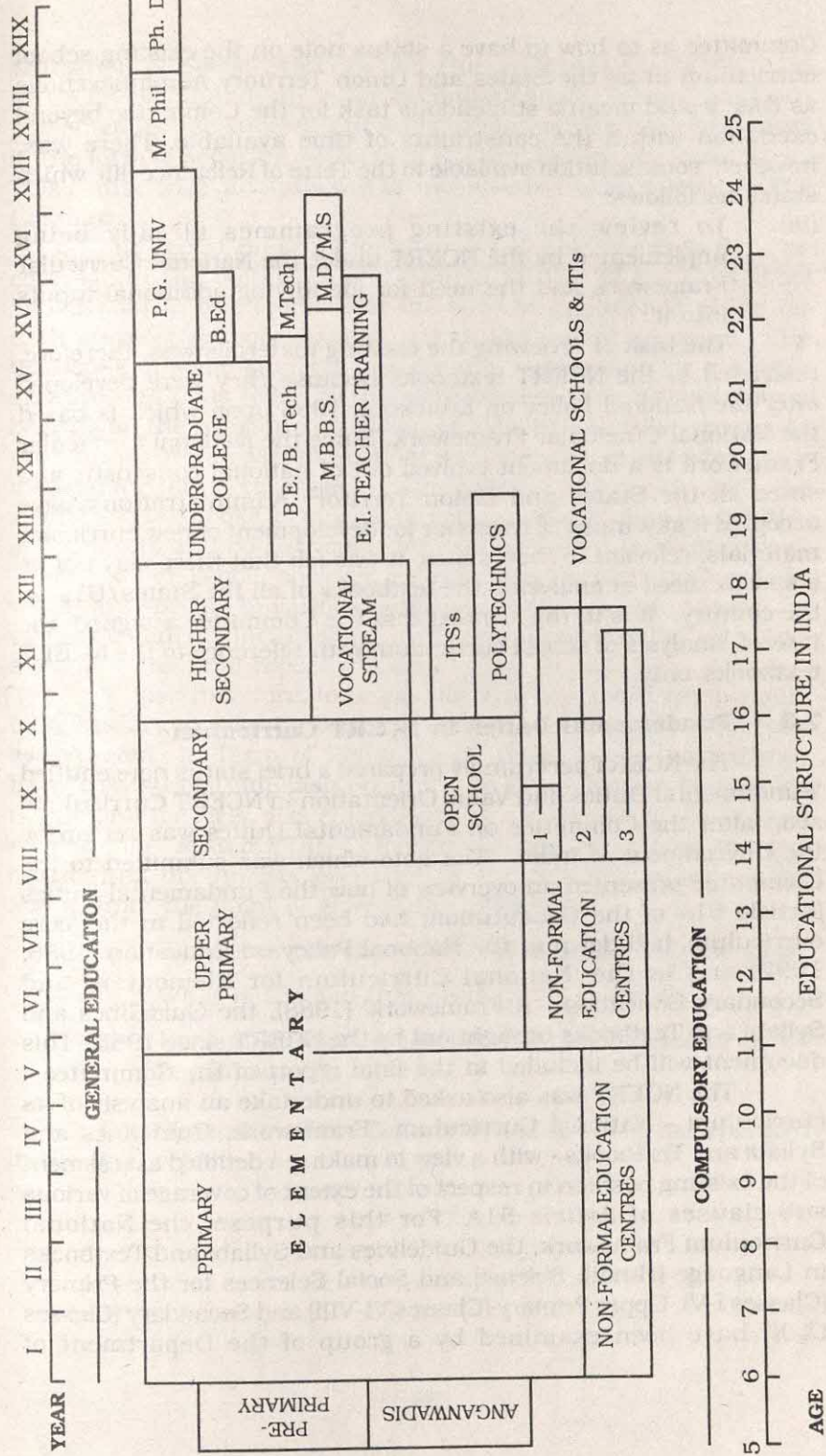
The structure of education in this country visualises 5 years of primary followed by 3 years of upper primary. Together the first 8 years of education is termed elementary education for which there is a provision of free, compulsory universal elementary education as per Article 45 of the Indian Constitution. This is followed by 2 years of secondary education. The first 10 years of education follow an undifferentiated curriculum for all and defines the concept of general education in the country. The last two years of school education, viz. classes 11 and 12 provide for diversification into academic and vocational streams. The school education structure, therefore, follows what is popularly known as the 10 + 2 pattern. It takes 3 years after higher secondary for the first degree and another 2 years for the post-graduate degree. A diagrammatic representation of the educational structure is given in fig. 1.

7.2 The Context of Curriculum Analysis

The Committee had an indepth discussion on the various Terms of Reference and drew specific attention to (i) and (ii) stated below:

- (i) To develop a package for teaching Fundamental Duties at primary, secondary, senior secondary and university levels
- (ii) To decide the activities as part of curriculum and cocurricular activities.

Keeping in view the above, the Committee decided that in order to see the necessity of undertaking the development of the above stated packages for different stages of education, it would be necessary first to have a survey of what is presently available in the curriculum at the school, including the textbooks and other supplementary materials. This posed a serious concern to the



Committee as to how to have a status note on the existing school curriculum in all the States and Union Territory Administrations as this would mean a stupendous task for the Committee beyond execution within the constraints of time available. There was, however, some solution available in the Term of Reference (iii) which states as follows:

- (iii) To review the existing programmes already being implemented by the NCERT under the National Curricular Framework and the need for identifying additional inputs into it.

The task of reviewing the existing materials was, therefore, restricted to the NCERT textbooks because they were developed after the National Policy on Education 1986 upon which is based the National Curricular Framework. Since the National Curricular Framework is a document evolved out of national consensus and since all the States and Union Territory Administrations have accepted it as a frame of reference for development of new curricular materials, relevant to their states, it was felt that there may not be a specific need of analyzing the textbooks of all the States/UTs in the country. It is in this context that the Committee assigned the task of analysis of school curriculum with reference to the NCERT textbooks only.

7.3 Fundamental Duties in NCERT Curriculum

The NCERT accordingly prepared a brief status note entitled 'Fundamental Duties and Value Orientation in NCERT Curriculum' soon after the Committee on Fundamental Duties was set up by the Government of India. The note which was submitted to the Committee presented an overview of how the Fundamental Duties (Article 51A of the Constitution) had been reflected in the 'core curriculum' laid down in the National Policy on Education (1986, 1992) and in the 'National Curriculum for Elementary and Secondary Education - A Framework' (1988), the Guidelines and Syllabi and Textbooks brought out by the NCERT since 1986. This document will be included in the final report of the Committee.

The NCERT was also asked to undertake an analysis of its curriculum - National Curriculum Framework, Guidelines and Syllabi and Textbooks - with a view to making a detailed assessment of the existing position in respect of the extent of coverage of various sub-clauses of Article 51A. For this purpose, the National Curriculum Framework, the Guidelines and Syllabi and Textbooks in Language (Hindi), Science and Social Sciences for the Primary (Classes I-V), Upper Primary (Classes VI-VIII) and Secondary (Classes IX-X) have been examined by a group of the Department of

Education of Social Sciences and Humanities of the NCERT. [In NCERT's curriculum up to the Secondary stage, Science has been presented as one subject, but social sciences have been presented in the form of separate subjects of History, Geography and Civics.] This clause-wise analysis will be included in the final report of the Committee.

The report presents for each sub-clause of Article 51A, its coverage in the objectives and content outline of the Guidelines and Syllabi in one or more of the subjects mentioned above for each stage of school education up to the secondary stage. The textbooks in some subjects also include suggestions for activities and projects. This refers to the activities and projects that have a bearing on the relevant sub-clause of Article 51A. The report also presents an overall assessment, for each sub-clause, the adequacy/inadequacy of its coverage and the specific aspects in which the syllabi and textbooks as well as the components relating to activities and projects and co-curricular programmes need to be improved. There is much scope, however, for enriching the activities/projects which are specific to various curricular areas and, even more, for various co-curricular activities and programmes for the school as a whole. The final report will detail these aspects.

It has, therefore, to be examined in depth whether it would be necessary to take up further curriculum development exercise as expected in Term of Reference (i). Also, the Committee may have to lay special emphasis on strategies for implementation, which the Committee feels, was emerging to be a weakness of the present educational system. The Committee is now examining the two curriculum documents prepared by the NCERT, as mentioned above, from the point of view of the following:

- a) What is already there in theory, practice and practicals?
- b) What is the gap that needs to be covered?
- c) How to sustain whatever has been decided to be implemented?

This dimension of the Committee's task will be incorporated in the final report.

Chapter 8

ANALYSIS OF TEACHER EDUCATION CURRICULUM FROM THE STANDPOINT OF FUNDAMENTAL DUTIES

The Term of Reference (iv) states "to develop programme packages for pre-service/in-service teachers' training at various levels". The pre-service and in-service components of teacher education are inseparable. Whereas the pre-service provides initial training to those who would accept to enter the teaching career, the in-service training is meant to provide for professional development of teachers while they are serving in the profession.

8.1 Structure of Teacher Education

The teacher education programmes in the country operate at two levels - pre-service and in-service. Pre-service teacher education programmes are also stage specific, e.g., there are programmes for preparing teachers for pre-school education, primary/upper primary education, secondary/higher secondary education. The usual structure of the teacher education programmes comprises of basic foundation courses which deal with philosophical, sociological and psychological perspectives of education. In addition, there are specific courses in methodology of teaching school subjects. Keeping in view the expected role of the teacher beyond the concerns of the classroom, there are components in curriculum requiring teachers' involvement with the tasks related to community development. There has not been complete uniformity in eligibility requirements, for admission purposes, by and large, there is a general framework of teacher training followed throughout the country. The teacher education institutions upto the elementary stage are under the control of SCERTs or State Directorates of Education. While Colleges of Teacher Education offering B.Ed. degrees are affiliated to the Universities in their respective states, it is upto the Boards of Education of the Universities to formulate the curricula and enforce them in the institutions affiliated to them. The NCTE which is a statutory body lays down standards and norms in teacher education and is an overarching body to see the qualitative development of

teacher education at all levels in the country. Directions from the NCTE to various institutions of teacher education, therefore, can be gainfully used for recasting curricula to ensure inclusion of Fundamental Duties as well as activities and programmes which can ensure their execution. The Committee was informed that unlike school curriculum there are no prescribed textbooks for teacher education curriculum at different stages. It was also pointed out that some typical case studies of a few good teacher training institutions may provide an exemplar idea of the situation.

8.2 Fundamental Duties in Elementary Teacher Education

Taking cue from the discussions held in the earlier meetings of the Committee, the NCTE undertook a quick study on the status position of the teaching of Fundamental Duties in terms of what has already been incorporated in the syllabi, how each Fundamental Duty and its related concerns are handled in the actual classroom teaching and to what extent these concerns are reflected in the campus activities. This exercise was undertaken by the NCTE in the District Institutes of Education and Training (DIETs) of Delhi in respect of elementary teacher education and in the Dev Samaj College of Education, Chandigarh in respect of secondary teacher education.

Analysis done by the NCTE reveals that though the Fundamental Duties as such are not incorporated in the elementary teacher education curriculum, related content and concerns do find a place in papers such as Sociological Perspectives of Education, Teaching of Environmental Studies (social studies), Teaching of Civics, Value Education, Teaching of History, Teaching of Health and Physical Education and Philosophical Perspectives of Education. The related content and concerns have also been found to be reflected in practical work that is undertaken in some of these courses. This extensive coverage may be attributed to the National Policy on Education 1986 and its insistence on the incorporation of core curricular areas which, in turn, were drawn from Fundamental Duties and the Preamble to the Constitution of India. However, *teaching of these related content and concerns is fragmented and scattered in different papers and units so much so that the impact gets extremely diluted.* This is corroborated in many informal interaction with experienced teacher educators. Further, one finds that many of the concerns are either completely ignored or inadequately covered, specially Fundamental Duties relating to noble ideals cherished during our national struggle for freedom, harmony and common brotherhood amongst all people of India, rich heritage of our composite culture, scientific temper,

preservation of public property, striving for excellence (Clauses (b), (e), (f), (h), (i), and (j) of Article 51A).

In actual classroom teaching most of the related content and concerns are treated in a peripheral way. Very few concerns come up for direct and intensive discussions. Campus activities are mostly confined to observance of national festivals and Days, cultural activities, bulletin board display, morning assemblies and community service oriented activities. *It may be pointed out that some of these campus activities are found to be mere rituals and the way they are organised, they seldom inspire student trainees and influence their attitudes and values.*

8.3 Fundamental Duties in Secondary Teacher Education

The status position with regard to secondary teacher education is more or less the same. Fundamental Duties as such are not included in the B.Ed. syllabus. It is in the context of National Policy on Education - 1986 that many of the related contents and concerns find a place in the syllabus: Teacher and Education in Emerging Indian Society, Value Education, Teaching of Social Sciences, Science and Population Education are generally the courses in which the related topics are dealt with. Many of the contents and concerns are not incorporated, specially the Fundamental Duties relating to noble ideals cherished during our national struggle for freedom, rich heritage of our composite culture, preservation of public property, and striving for excellence. (Clauses (b), (f), (i), and (j) of Article 51A).

Classroom teaching seldom provides an opportunity for meaningful discussion on many of these contents and concerns. Like in the elementary teacher education, campus activities at the secondary teacher education level are also confined to observance of national festivals and Days, debates and seminars, cultural activities and educational tours.

8.4 Inservice Teacher Education

As regards inservice teacher training, the programmes are organized at national, state, district, block, cluster and institutional levels. The scope varies from need-based subject training to orientation/training in specific thematic areas of concern. The status situation of Fundamental Duties in inservice teacher education curriculum will need to be assessed as a part of the remaining work of the Committee.

8.5 Suggestions

- (i) The nature of Fundamental Duties is such that they fall

basically in the non-cognitive domain. In actual classroom situation the stress is on information and content rather than on development of attitudes and values. It may, therefore, be argued that *mere incorporation of Fundamental Duties in the teacher education curriculum may not serve the purpose*. Since the whole question is linked to the larger issue of the quality of teaching and learning in general, teaching of Fundamental Duties should not be considered in isolation.

(ii) *The combination of curricular and co-curricular approaches is the best strategy to adopt in the Indian situation*. The effective way to institutionalise the concept of Fundamental Duties in the teacher education is to incorporate it in the elementary and secondary pre-service teacher education curriculum. This should be supplemented by a suitable co-curricular programme which should aim at offsetting some of the shortcomings in the curricular approach especially in terms of attitude and value development.

(iii) In view of very little content on Fundamental Duties included in the elementary and secondary teacher education syllabi, what is needed is a vigorous advocacy with state educational agencies, teacher education institutions and university departments of education. While it is true that the national curricular framework brought out by the NCTE has received a wide acceptance throughout the country, there is not enough evidence to show that all the desirable curricular changes especially those relating to the core values and principles laid down in the Constitution of India have been brought about. It should be possible for the NCTE with the newly acquired status of a statutory body and also with the continued support of the MHRD, Government of India, to influence teacher education curricula in different universities in a more substantial way. *Considering the autonomous nature of universities, effective mechanism needs to be evolved for bringing about suitable changes in the teacher education curricula*.

(iv) The NCTE's 'Curriculum Framework for Quality Teacher Education' brought out in 1998 recommends that since the Fundamental Duties as enshrined in the Constitution of India are pre-requisites for overall development of the nation, teacher education must equip every school teacher with capabilities to inculcate amongst young children the commitment to these Fundamental Duties. In this context *it may be pointed out that teacher education curricula at the elementary and secondary levels need a thorough review from the standpoint of identifying entry points for the incorporation of Fundamental Duties*.

(v) In order to overcome the disadvantage of fragmented treatment and discussion on Fundamental Duties, *it is suggested that an independent comprehensive unit encompassing all Fundamental Duties should be incorporated in the elementary and secondary teacher education syllabi.* Such a unit may suitably find a place in a compulsory paper such as Education in the Emerging Indian Society. This would ensure exposure of all the student trainees to the concept of Fundamental Duties. Incorporating the independent unit on Fundamental Duties has several advantages. In India evaluation system influences the educational process specially the quality of classroom teaching significantly and as such a separate unit on Fundamental Duties ensures due importance and weightage to the concept in the classroom teaching.

Considering the importance of upholding and protecting sovereignty, unity and integrity of India, it is felt that *NCC should be made compulsory in all the pre-service teacher education institutions, both elementary and secondary.*

(vi) Equal, if not more emphasis should be laid on co-curricular programmes/ campus activities. In this context it will not be out of place to suggest that *Fundamental Duties Week which may suitably be titled such as India Week, may be observed in all teacher education institutions every year.* The objective of this Week may be to create essential awareness and positive environment for the inculcation of attitudes and values as reflected in the Fundamental Duties. The Week should provide ample scope for covering all the Fundamental Duties and related concerns. Funds for observing the Week may be generated at the central/ local levels to motivate teacher educators and their institutions. Though the detailed scheme of the India Week may be worked out after the idea takes a definite shape, the NCTE may prepare a list of activities and guidelines for organising these activities for wider dissemination. Some activities suggested by the NCTE are as follows:

- Interactive sessions between local experts and student trainees on various components of Fundamental Duties
- Youth Parliament more preferably question-answer session covering all Fundamental Duties
- Morning assemblies devoted exclusively to the theme of Fundamental Duties
- Use of Bulletin board
- Community singing of songs in regional languages. In this context it may be pointed out that similar programmes started by the NCERT during 1980s proved to be very effective and popular

- Activities relating to the preservation of environment and historical monuments in the locality
- Community service oriented activities, and
- Cultural activities including debates, seminars and quiz contests

The status report received from the NCTE along with the suggestions listed therein will be examined so that the Committee can formulate its specific recommendations in the final report.

Chapter 9

FUNDAMENTAL DUTIES IN HIGHER AND PROFESSIONAL EDUCATION

Higher and Professional education are very important stages as they prepare the necessary manpower for economic, scientific and technological development of the country. A request from the Committee to the Chairperson of the UGC was addressed through a letter dated 3rd November 1998. In response thereto, a communication dated 12th January 1999 has been received from the UGC that they are "glad to know that a Committee is working on this important issue of Fundamental Duties." It has been intimated that "in the universities and colleges, the decisions regarding curriculum are taken by the respective universities. UGC panels of subject experts provide guidance on the reform and development in the subject areas. Issues of social agenda and developments like environmental education, human rights education, etc., are taken through special programmes. Some of the Fundamental Duties and Rights of people also fall in the above area." It has been stated that "academicians in higher education can also contribute through research and strengthen the concept and practice of Fundamental Duties at the different levels." The Committee has been informed that the "UGC will consider this matter in Committees of Subject Panels and Human Rights.

The UGC has also sent "a letter requesting the universities to communicate to the UGC about the present status of teaching Fundamental Duties. There is a general feeling that there is no direct teaching of this subject. A study on this takes place in social science subjects, particularly Political Science, Public Administration as well as professional subjects like law." The UGC has intimated that as soon as a status report is available from the universities, they will inform the Committee accordingly. They have also expressed a desire to be kept informed of the progress of Justice Verma Committee.

The Committee's tasks would have been facilitated if greater assistance in this sphere was available from the UGC along with some positive suggestions. The Committee has had to proceed so

far without this advantage Further efforts of the Committee are continuing in this direction. The Committee expects detailed inputs from the UGC before it makes its recommendation on this aspect in the final report.

Chapter 10

TASKS AHEAD

10.1 Implementation Overview

In order to devote its thinking on the issue of operationalization of the teaching of Fundamental Duties, the Committee decided to study this issue in its holistic perspective and set a time frame of one year from the date of issue of order constituting the Committee, for completing the assignment.

The foregoing pages of this report contain a general account of the existing situation in terms of legislative provisions, schemes\programmes, curricular interventions relevant to the subject of Fundamental Duties. This has been so far the basis of the deliberations of the Committee on operationalizing the teaching of Fundamental Duties to the citizens of the country and can at best be treated as the first part of the exercise undertaken by the Committee. *The attempt has been to understand what provisions are already available, to what extent they are currently operational, what needs to be done to achieve better results and particularly how certain interventions can be initiated without delay.*

The emphasis on the dignity of the individual must be brought out in its true perspective in the curriculum for an overall development of the personality of the individual. This requires consciousness of citizenship values which are a combination of rights and duties, which together give rise to discharge of social responsibilities. There is a need that this aspect must form part of curriculum and methods devised to operationalize it as a constitutional value. The task in this direction is under deliberation of the Committee.

The word operationalization has a meaning which points out to action in discharging responsibility towards defined expectations, as one would expect every individual to perform. The concept of duty as an integral part of the personality of an individual should emanate from the deep concerns within the individual to discharge certain obligations and responsibilities towards the social system in which he\she lives. Duty consciousness is a virtue and a value. There is generally a dichotomy between knowing the right value and manifesting it by internalizing it in one's behaviour. It is often said that the values are caught and not taught and it is here

that role models have a great significance.

It is unfortunate that our educational system is largely involved in preparing younger generation for developing their cognitive domain based on preponderance of public examinations, and unhealthy environment of competitiveness, at the cost of developing affective domain. This is perhaps the reason that in spite of the students being exposed through curriculum on what ought to be their duties, their manifested behaviour may not exhibit the same to be extent expected and this perhaps is emerging as a social reality. *The Committee, therefore, feels that there may be a need for fundamental change and transformation in the direction and approach to curricular transaction for achieving the desired results. Obviously the need is also to effect corresponding modifications in the teacher education programme so that there is a necessary reorientation of the proposed approach and its delivery system.*

Duties are observed by individuals either as a result of dictates of the social system and the environment in which one lives as also from role models or they are observed through their enforceability by legal and other punitive provisions. It may be necessary to enact suitable legislations wherever necessary to require obedience of obligations by the citizens. If the existing legislations are inadequate to enforce the needed discipline, such a legislative vacuum need to be filled to ensure enforceability. If legislations and directions given in judicial decisions are available and still there are violations of Fundamental Duties, this would call for some serious strategies of making them operational.

Ample references are available in school curricula about the significance and importance of the national flag and the national anthem. Detailed accounts are also there in our curricula on our national struggle for freedom which ought to inculcate the patriotic fervour in the young minds so that they can always share the readiness to help and protect the sovereignty, unity and integrity of India. Perhaps no other concept has received as much attention in the curricula as the environmental concerns. Considering all these, one still finds that the products of the educational system do not adequately reflect the values sought to be acquired through curricular learnings. One can obviously draw a conclusion that perhaps the method and approach used in transmitting such ideas to young learners need more discussion and it is in this direction that the Committee is now devoting its time. A serious issue appears to be to ensure in some manner practical and appropriate inputs in improving the quality of teachers and teaching. The commitments and concerns on the part of the teachers can only be the basis for

something worthwhile to happen in the system.

It can also be noted that expectations from education are to be viewed in the context that education is a sub system of the total social system. It is in this context that a few interim recommendations are stated in the next chapter. A long term strategy for developing a value-based society can come only through the instrumentality of education and training.

It was thus extremely important to put the work of the Committee in the conceptual framework defined in the basic ideals of our Constitution and, to outline the spirit in which egalitarianism, democracy and secularism have to be understood and practised by the social polity. It is in this context that in the scope of deliberations outlined in Chapter 3, areas like constitutional obligations, secularism in the Indian context, need for inclusion of Article 51A, the relationship between Human Rights and Human Responsibilities have been discussed so that the problem is looked at from the point of view of our developing respect for the Constitution, its ideals and institutions rather than anything else.

The desired enforceability can be better achieved by providing not merely for legal sanctions but also combining it with social sanction and to facilitate the performance of the task through exemplar role models. The element of compulsion in legal sanction when combined with the natural urge for obedience of the norms to attract social approbation would make the citizens willing participants in the exercise. The real task, therefore, is to devise methods which are a combination of these aspects to ensure a ready acceptance of the programme by the general citizenry and the youth, in particular.

10.2 Tasks Under Consideration

(a) The task of ascertaining *Fundamental Duties in Non-Formal and Adult Education* programmes has not yet become clear. Efforts are being made that the NLM and the Directorate of Adult Education, Government of India provide the relevant details the Committee has sought from them.

(b) The Committee is keeping in touch with the UGC to seek the necessary details in regard to *Fundamental Duties in Higher Education*, based on which the Committee will make its recommendations in the final report.

(c) The Committee feels that *definitive evaluation of the work being undertaken under various schemes\programmes* would have to be further studied to ensure that they are in tune with the spirit of Fundamental Duties and that we optimize benefits from the existing inputs.

(d) The views received from different sections of the society as summarised synoptically in Chapter 6 are being examined to decide what can be accepted and incorporated in the final report for implementation.

(e) The status of Fundamental Duties in school and teacher education curricula is being examined further to identify gaps which need to be bridged.

(f) It will be important to highlight the ideals and basic values of the Indian Constitution. A *Manual on Citizenship Duties* which will deal appropriately with the various concerns related to Fundamental Duties could be an important contribution. This could be used as a reference by curriculum developers, textbook writers, teacher educators as well as general citizenry.

(g) It is proposed to make a judicious collection of all the literature available in the country on value education and to prepare a bibliography for reference. Such a material can be a support as a supplementary material in the implementation of Fundamental Duties.

Chapter 11

Interim Recommendations

There is a need that curriculum and methods are so devised as to operationalize Fundamental Duties as a constitutional obligation. In order to formulate the Committee's Interim Recommendations, the previous Chapters of the Report indicate the attempt made to understand what provisions on the teaching of Fundamental Duties are already available, to what extent they are in operation, what needs to be done to achieve better results and particularly how certain interventions can be initiated forthwith. In the light of this, a few interim recommendations are made as follows:

1. There is a need for a fundamental transformation in the direction and approach to the curricula for teaching Fundamental Duties in schools and teacher education institutions. Citizenship values should be understood by all concerned as a combination of rights and duties. Appropriate steps in this regard need to be initiated through the educational process to achieve the desired results in the long run..
2. A number of judicial decisions are available towards enforcement of aspects related to protection and improvement of environment. What is needed in operationalization is strict compliance of the provisions of the various Acts in this regard.
3. Conscious efforts need to be made that the work of the NGOs in the area of national integration and communal harmony, culture and values, and environment is not only strengthened but continuously monitored. The Committee also recommends that the definitive evaluation of the work done by the NGOs under the existing schemes/programmes would also be desirable to optimize benefits from the existing provisions.
4. Creating more awareness of the Fundamental Duties in citizens through advocacy and sensitization programmes is the prime need of the times. The Preamble to the Constitution of India and the 10 clauses of Article 51A relating to Fundamental Duties could be appropriately displayed on all government publications, diaries, calendars, and at public places, etc. so that they always remain in the focus of the citizens. This should be done in all Indian languages in the States\UTs.
5. Preamble to the Constitution of India and the ten clauses

of Article 51A of the Constitution regarding Fundamental Duties be printed in all the school textbooks, supplementary materials and general publications brought out by the NCERT. (Instructions to this effect have already been issued by the NCERT.) The State Governments will now be requested for a similar action on school textbooks brought out by the States.

6. The intent of each clause of Article 51A could be a subject of brief presentation in all morning assemblies in the schools, and the teacher education institutions by the Head of the Institution or some senior member of the staff, highlighting the need of internalizing the values inherent in the Fundamental duties. Such presentations could continue throughout the academic session covering all aspects underlying the clauses.

7. Seminars, debates, competitions on different aspects of Article 51A could be made a regular feature of the cocurricular programmes of the schools, colleges and universities.

8. A sensitization module based on Fundamental Duties be made an integral part of all in-service teacher education programmes organised by national, state and district level institutions. Fundamental Duties could be included in the Foundation Course in Teacher Education curriculum.

9. Development of radio and video spots highlighting important messages emanating from the clauses of Article 51A in the background of proper music and national flag to be done in all regional languages by All India Radio, Doordarshan and other DD channels through the involvement of such media persons as are known for innovative presentation of nationally important messages.

10. January 3 (the date on which Article 51A came into force) be observed as Fundamental Duties Day.

Annexures

1-9

**1. Order of the Government of India
Constituting the Committee**

F. No. 16-23/98-Sch. 1

Government of India

Ministry of Human Resource Development

Department of Education School-1 Section

New Delhi, the 21st July, 1998

ORDER

Subject: Constitution of Committee to operationalize the suggestions to teach Fundamental Duties to the citizens of the country

The Department of Education in the Ministry of Human Resource Development have decided to set up a Committee consisting of the following to work out a strategy as well as methodology of operationalizing a countrywide programme for teaching fundamental duties in every educational institution as a measure of inservice training :-

Justice J.S. Verma
Former Chief Justice
Supreme Court

-Chairman

Shri L.M.Singhvi

- Member

Dr. Karan Singh

- Member

Dr. J.S. Rajput

- Member

Prof. A.K. Sharma

- Member Secretary

2 The terms of reference of the Committee are as under :-

- i) To develop a package for teaching fundamental duties at primary and secondary, senior secondary and university level.
- ii) To decide the activities as part of Curriculum and co-curricular activities.

- iii) To review the existing programme already being implemented by NCERT under the National Curricular Framework and the need for identifying additional inputs to it.
 - iv) To develop programme packages for pre-service/ inservice training of teachers at various levels.
 - v) To develop & separate package for the training of citizens through non-formal education/adult education programme/ media (print, electronic.. etc.)
3. The Committee will devise its own procedure and methodology of work. The Committee will co-opt as many members as required to accomplish the task assigned. All Secretarial assistance and other services to the Committee would be provided by the NCERT
4. TA/ DA to non-official members will be paid by the NCERT as per admissible rules.

(P. H. SETHUMA DHAVA RAO)
Joint Educational Adviser

Prof. A.K. Sharma
Director
NCERT
Sri Aurobindo Marg
New Delhi 110 016

2. Copy of Press Release

PRESS RELEASE

Operationalizing Article 51(A) on Fundamental Duties

It is hereby notified for the information of the public that the Government of India in the Ministry of Human Resource Development (Department of Education) has set up a Committee under the Chairmanship of Justice J. S. Verma, formerly Chief Justice of India "to Operationalize the Suggestions to teach Fundamental Duties to the Citizens of the Country".

The Committee is expected to develop an Action Plan for teaching of Fundamental Duties at all stages of school education, primary, upper primary, secondary and higher secondary as well as higher education through curricular and co-curricular activities. The target groups being addressed are school students both in school and out of school, teachers, adults and general citizenry. The Committee visualises a holistic approach to this exercise by involving both print and electronic media.

The Committee wishes to draw upon the views and suggestions of all the citizens of the country in this regard. It is hoped that the response will provide some directions towards implementing the task assigned to the Committee.

Suggestions may kindly be sent to:

Dr. A. K. Sharma
Member Secretary of the Committee and
Director
National Council of Educational Research and Training,
Sri Aurobindo Marg,
New Delhi-110 016

Tele : 6519154, 6964712

Fax : 11-6868419,

(Dr. A. K. Sharma)
Member-Secretary

**3. Copy of the letter sent to the
Chairperson of the UGC**

F. No. PS(D) / 6-3/ 98/ FD
November 3, 1998

Dear

This has reference to the Committee set up by the Government of India in the Ministry of Human Resource Development (Department of Education) to "Operationalize the Suggestions to Teach Fundamental Duties to the Citizens of the Country." Justice J.S. Verma, Chairman of the Committee, desired certain basic documents to be prepared before the first meeting of the Committee was held. This includes preparation of status papers on the teaching of Fundamental Duties as enshrined in Article 51A and other parts of the Constitution in:

- school curriculum, including co-curricular activities;
- teacher education curriculum, both pre-service and in-service;
- curriculum followed in Non-Formal Education and Adult Education programmes;
- media (print, electronic) interventions;
- higher education.

A Status Note in respect of school curriculum as a first step towards the exercise undertaken by the Committee has almost been completed. A Status paper on teacher education curriculum has also been prepared by the National Council for Teacher Education (NCTE). These and some other relevant documents are enclosed for your kind perusal.

Justice Verma has advised me to get in touch with you in knowing the status of teaching Fundamental Duties in the Curriculum of relevant subjects in respect of Higher Education. Kindly advise me on how to access the required position in this area. I had an opportunity of sharing with you this concern of the Committee during the meeting of State Education Ministers and Secretaries in vigyan Bhawan held recently for which your were kind enough to spare your time.

The Government of India while issuing the order constituting

the Committee has left to the Committee co-option of members whose advice and contributions will be of help in accomplishing the tasks assigned to the committee. Justice verma is seized of the matter in this regard.

With regards,

Yours sincerely,

Encl: as stated

(A. K. Sharma)

Dr. (Ms) A. Desai
Chairperson
University Grants Commission
Bahadurshah Zafar Marg
New Delhi

4. Press Notification

PRESS NOTIFICATION**Operationalizing Fundamental Citizenship Duties**

It is hereby notified for the information of the public that the Government of India in the Ministry of Human Resource Development (Department of Education) has set up a Committee under the Chairmanship of Justice J.S. Verma, formerly Chief Justice of India "to Operationalize the Suggestions to Teach Fundamental Duties to the Citizens of the Country".

The Committee is expected to develop an Action Plan for teaching of Fundamental Citizenship Duties as enshrined in Article 51A and other parts of the Constitution for all sections of the Society, particularly covering all stages of school education as well as higher education. The Committee visualises a holistic approach to this exercise by involving both print and electronic media. Citizens in all walks of life especially academics, teachers, students, legislators, Non-Governmental Organizations(NGOs) are welcome to send their considered views in writing along with relevant materials, if any, to the Committee, indicating strategies for : (1) Nationwide inculcation and propagation of Citizenship Values, (2) Preparation of programmes related to: a. Curricular and co-curricular activities for all stages of school education, b. Institutions of higher education, c. Non-formal and adult education, d. Teacher Training, both pre-service and in-service, e. Programmes to be specially designed for Panchayati Raj institutions and also institutions of local self governments including youth organisations, professional bodies and voluntary organisations, (3) Role of media, both print and electronic.

Views and suggestions along with materials, if any, may kindly be sent by 31.12.1998 to:

Dr. A.K. Sharma
Member-Secretary of the Committee and
Director, National Council of Educational
Research and Training
Sri Aurobindo Marg
New Delhi 110 016

Fax: 11-6868419

**5. List of Newspapers covering
Press Notification**

List of Newspapers in which the advertisement has been appeared.

1. Hindustan Times (all editions)
2. Indian Express (all editions)
3. Times of India (all editions)
4. Statesman (Delhi, Calcutta)
5. Sontinol (Guwahati)
6. Excelcior (Srinagar)
7. Shillong Times
8. Tribune (Chandigarh)
9. Manipur Express
10. Navbharat Times
11. Bhashkar (combined)
12. Nai Duniya
13. Jansatta
14. Punjab Kesari
15. Rajasthan Patrika (combined)
16. Jagaran (combined)
17. Rashtriya Sahara
18. Amar Ujala (Meerut/Agra)
19. Aj (varanasi, Gwalior)
20. Malayala Manorama (Malayalam all editions)

**6. Copy of the letter written from
Chairman of the Committee to
Vice-Chancellor's State Education
Secretaries, NGOs, etc.**

Justice J. S. Verma

FORMER CHIEF JUSTICE OF INDIA

F.No.PS(D)/ 6-3/98/FD
October 28, 1998

Dear Sir/Madam

Perhaps you are aware through media reports or otherwise that the Government of India in the Ministry of Human Resource Development (Department of Education) has, constituted a Committee "to Operationalize the Suggestions to Teach Fundamental Duties to the Citizens of the Country." I have been given the responsibility of being the Chairman of the Committee. Other members of the Committee are, Dr. L.M. Singhvi, formerly High Commissioner of India to United Kingdom and Member of Parliament (Rajya Sabha), Dr.Karan Singh, Member of Parliament (Rajya Sabha), Prof.J.S Raiput. Chairman, National Council for Teacher Education (NCTE), and Prof. A.K.Sharma, Director, National Council of Educational Research and Training (NCERT). The Committee has also co-opted Dr. Subhash C. Kashyap, formerly Secretary-General, Lok Sabha as a member of this Committee.

As a part of work of this Committee, we are reviewing the existing programmes already being implemented by the NCERT under the National Curriculum Framework. Analysis of the existing situation will enable the Committee to identify the gaps and design additional inputs in the teaching of Fundamental Duties under the Constitution. Teacher being a Pivotal factor in the whole process of education, a similar exercise has also been undertaken in respect of teacher training programmes both pre-service and in-service.

305 GOVARDHAN APARTMENTS, KAUSHAMBI,
GHAZIABAD) 201010, U.P, (INDIA) PH 91 575-771402

The Committee is expected to develop an Action Plan for teaching of Fundamental Citizenship Duties as enshrined in Article 51A and other parts of the Constitution for all sections of the Society, particularly covering all stages of school education, (primary, upper primary, secondary and higher secondary) as well as higher education, through curricular and co-curricular activities. The target groups being addressed are the citizens of the country including students (both in school and out of school), teachers, adults, and general citizenry. The Committee visualises a holistic approach to this exercise by involving both print and electronic media.

All this has been prompted by the growing concern over the erosion of values and the increasing cynicism in the society which has made it imperative to bring into sharper focus the provisions of Article 51 A.

In view of a place of eminence occupied by you in the field of education as well as social fabric of our Society, I am writing to seek your suggestions and views which may help the committee in completing its onerous task. Any suggestions borne out of your experience and understanding will be a great help to the Committee. I shall be grateful for your early response to this letter as the Committee desires to complete this task as early as possible.

Reply may kindly be addressed to:

Dr. A.K. Sharma
Member Secretary of the Committee and
Director, National Council of Educational
Research and Training
Sri Aurobindo Marg
New Delhi-110016

Tele : 651-9154: 696-4712

Fax : 11-6868419

With regards,

Yours sincerely,
Sd/-
(J. S. Verma)

To

1. Chairman of Boards of School Education, Central and State
(By name)

2. Vice-chancellors of Central and State Universities including Deemed Universities(Letters prepared as per Association of Indian University's List)
3. Chairman, All India Council of Technical Education, Indian Medical Council, Indian Nursing Council.
4. Presidents of National Level Teachers Organizations

Annexure 7

7. Copy of the letter sent to Chief Ministers by the Chairman of the Committee

F.No. PS(D)\6-3\FD
December 28, 1998

Dear,

I wish to draw upon Your precious time amidst Your multifarious responsibilities in sharing, a very important concern facing our nation.

In the initial drafting of our Constitution, its framers did not feel the need to Incorporate the fundamental duties of the citizens, specifically in the Constitution. It was presumed that these duties would be covered under the basic values inherent in the constitutional promise in the Preamble to the Indian Constitution. But the growing concern over the erosion of values and the increasing cynicism in the society perhaps made it imperative to bring into sharper focus basic human values necessary for upliftment of the Indian Society. This is what prompted insertion of Article 5 1 A through a Constitutional Amendment of 1976, to remind us of the constitutional values and citizens obligations inherited from the othos of the Indian polity. A close scrutiny of every clause of this Article indicates that these concerns have been a part of the Indian tradition.. Mythology, religions and practices. At this juncture of history, the nation needs to re-emphasize them in a pragmatic manner for inculcation by all generation to ensure a better future for the nation.

In this context, I would like to apprise you that the Government of India in the Ministry of Human Resource Development, Department of Education, has constituted a Committee "to Operationalize the Suggestions to Teach Fundamental Duties to the Citizens of the Country " I have been given the responsibility of being the Chairman of the Committee. Other members are Dr. L.M. Singhvi, Member of Parliament (Rajya Sabha), Dr. Karan Singh, Member of Parliament (Rajya Sabha), Dr. J.S. Rajput, Chairman, National Council for Teacher Education (NCTE), Dr. Subhash C. Kashyap, Formerly Secretary General of LoK Sabha and Dr. A.K. Sharma, Director. National Council of Educational Research and Training (NCERT.).

The Committee is expected to develop an Action Plan for teaching of fundamental duties as enshrined in Article 51A and other parts of the Constitution for all sections of the society and covering all stages of education. The Committee visualises a holistic approach to this exercise by involving both print and electronic media and other forms of mass communication. The involvement of State Governments is imperative for the success of this venture.

Accordingly, I am writing to seek your views and suggestions which may help the Committee in completing its onerous task. I would be particularly eager to seek your specific suggestions to **initiate some innovative programmes in** this regard in your State, under your dynamic leadership, through the various instrumentalities under your control. May I suggest that direct interaction of the Committee with you and other functionaries of your government identified by you would make the exercise more meaningful. Modalities of the interaction can be finalised on hearing from you. Your State could be pioneer towards effective operationalization of Article 51 A of the Indian Constitution.

In view of the urgency of the matter and the Committee's desire to conclude the task at the earliest, an early response is solicited.

With regards,

Yours sincerely,

Sd/-
(J. S. Verma)

To

All Chief-Ministers

INTERACTION COUNCIL

A UNIVERSAL DECLARATION OF HUMAN RESPONSIBILITIES

(Proposed by the Inter Action Council)

1 September 1997

Introductory Comment

It is time to talk about human responsibilities

Globalization of the world economy is matched by global problems; and global problems demand global solutions on the basis of ideas, values and norms respected by all cultures and societies. Recognition of the equal and inalienable rights of all the people requires a foundation of freedom, justice and peace - but this also demands that rights and responsibilities be given equal importance to establish an ethical base so that all men and women can live peacefully together and fulfil their potential. A better social order both nationally and internationally cannot be achieved by laws, prescriptions and conventions alone, but needs a global ethic. Human aspirations for progress can only be realised by agreed values and standards applying to all people and institutions at all times.

Next year will be the 50th anniversary of the Universal Declaration of Human Rights adopted by the United Nations. The anniversary would be an opportune time to adopt a Universal Declaration of Human Responsibilities, which would complement the Human Rights Declaration and strengthen it and help lead to a better world.

The following draft of human responsibilities seeks to bring freedom and responsibility into balance and to promote a move from the freedom of indifference to the freedom of involvement. If one person or government seeks to maximise freedom but does it at the expense of others, a larger number of people will suffer. If human beings maximise their freedom by plundering the natural

resources of the earth, then future generations will suffer.

The initiative to draft a Universal Declaration of Human Responsibilities is not only a way of balancing freedom with responsibility, but also a means of reconciling ideologies, beliefs and political views that were deemed antagonistic in the past. The proposed declaration points out that the exclusive insistence on rights can lead to endless dispute and conflict, that religious groups in pressing for their, own freedom have a duty to respect the freedom of others. The basic premise should be to aim at the greatest amount of freedom possible, but also to develop the fullest sense of responsibility that will allow that freedom itself to grow.

The Inter Action Council has been working to draft a set of human ethical standards since 1987. But its work builds on the wisdom of religious leaders and sages down the ages who have warned that freedom without acceptance of responsibility can destroy the freedom itself, whereas when rights and responsibilities are balanced, then freedom is enhanced and a better world can be created.

The Inter Action Council commends the following draft Declaration for your examination and support.

Universal Declaration of Human Responsibilities

(Proposed by the Inter Action Council)

Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world and implies obligations or responsibilities,

whereas the exclusive insistence on rights can result in conflict, division, and endless dispute, and the neglect of human responsibilities can lead to lawlessness and chaos,

whereas the rule of law and the promotion of human rights depend on the readiness of men and women to act justly,

whereas global problems demand global solutions which can only be achieved through ideas, values, and norms respected by all cultures and societies,

whereas all people, to the best of their knowledge and ability, have a responsibility to foster a better social order, both at home and globally, a goal which cannot be achieved by laws, prescriptions, and conventions alone,

whereas human aspirations for progress and improvement can only be realized by agreed values and standards applying to all people and institutions at all times,

Now, therefore,

The General Assembly

proclaims this Universal Declaration of Human Responsibilities as a common standard for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall contribute to the advancement of communities and to the enlightenment of all their members. We, the peoples of the world thus renew and reinforce commitments already proclaimed in the Universal Declaration of Human Rights: namely, the full acceptance of the dignity of all people; their inalienable freedom and equality, and their solidarity with one another. Awareness and acceptance of these responsibilities should be taught and promoted throughout the world.

Fundamental Principles for Humanity

Article 1

Every person, regardless of gender, ethnic origin, social status, political opinion, language, age, nationality, or religion, **has a responsibility to treat all people in a humane way.**

Article 2

No person should lend support to any form of inhumane behavior, but all people have a responsibility to strive for the dignity and self-esteem of all others.

Article 3

No person, no group or organization, no state, no army or police stands above good and evil; all are subject to ethical standards. Everyone has a responsibility to promote good and to avoid evil in all things.

Article 4

All people, endowed with reason and conscience, must accept a responsibility to each and all, to families and communities, to races, nations, and religions in a spirit of solidarity: **What you do not wish to be done to yourself, do not do to others.**

Non-Violence and Respect for Life

Article 5

Every person has a responsibility to **respect life**. No one has the right to injure, to torture or to kill another human person. This does not exclude the right of justified self-defense of individuals or communities.

Article 6

Disputes between states, groups or individuals should be resolved without violence. No government should tolerate or participate in acts of genocide or terrorism, nor should it abuse women, children, or any other civilians as instruments of war. Every citizen and public official has a responsibility to act in a peaceful, non-violent way.

Article 7

Every person is infinitely precious and must be protected unconditionally. The animals and the natural environment also demand protection. All people have a responsibility to protect the air, water and soil of the earth for the sake of present inhabitants and future generations.

Justice and Solidarity

Article 8

Every person has a responsibility to behave with **integrity, honesty and fairness**. No person or group should rob or arbitrarily other person or group of their property.

Article 9

All people given the necessary tools have a responsibility to make serious efforts to overcome poverty malnutrition, ignorance, and inequality. They should promote sustainable development all over the world in order to assure dignity, freedom, security and justice for all people.

Article 10

All people have a responsibility to develop their talents through diligent endeavour; they should have equal access to education and to meaningful work. Everyone should lend support to the needy, the disadvantaged, the disabled and to the victims of discrimination.

Article 11

All property and wealth must be used responsibly in accordance with justice and for the advancement of the human race. Economic and political power must not be handled as in instrument of domination, but in the service of economic justice and of the social order.

Truthfulness and Tolerance

Article 12

Every person has a responsibility to **speak and act truthfully**. No

one, however high or mighty, should speak lies. The right to privacy and to personal and professional confidentiality is to be respected. No one is obliged to tell all the truth to everyone all the time.

Article 13

No politicians, public servants, business leaders, scientists, writers or artists are exempt from general ethical standards, nor are physicians, lawyers and other professionals who have special duties to clients. Professional and other codes of ethics should reflect the priority of general standards such as those of truthfulness and fairness.

Article 14

The freedom of the media to inform the public and to criticise institutions of society and governmental actions, which is essential for a just society, must be used with responsibility and discretion. Freedom of the media carries as special responsibility for accurate and truthful reporting. Sensational reporting that degrades the human person or dignity must at all times be avoided.

Article 15

While religious freedom must be guaranteed, the representatives of religions have a special responsibility to avoid expressions of prejudice and acts of discrimination toward those of different beliefs. They should not incite or legitimise hatred, fanaticism and religious wars, but should foster tolerance and mutual respect between all people.

Mutual Respect and Partnership

Article 16

All men and all women have a **responsibility to show respect** to one another **and understanding** in their partnership. No one should subject another person to sexual exploitation or dependence. Rather, sexual partners should accept the responsibility of caring for each other's well being.

Article 17

In all its cultural and religious varieties, marriage requires love,

loyalty and forgiveness and should aim at guaranteeing security and mutual support.

Article 18

Sensible family planning is the responsibility of every couple. The relationship between parents and children should collect mutual love, respect, appreciation and concern. No parents or other adults should exploit, abuse or maltreat children.

Conclusion

Article 19

Nothing in this Declaration may be interpreted as implying for any state, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the responsibilities, rights and freedom set forth in this Declaration and in the Universal Declaration of Human Rights of 1948.

ENDORSEMENT

The proposed Universal Declaration of Human Responsibilities have the endorsement of the following individuals:

1. The InterAction Council Members

Helmut Schmidt (Honorary Chairman)

Former Chancellor of the Federal Republic of Germany

Malcolm Fraser (Chairman)

Former Prime Minister of Australia

Andries A. M. van Agt

Former Prime Minister of the Netherlands

Anand Panyarachun

Former Prime Minister of Thailand

Oscar Arias Sanchez

Former President of Costa Rica

Lord Callaghan of Cardiff

Former Prime Minister of the United Kingdom

Jimmy Carter

Former President of the United States

Miguel de la Madrid Hurtado

Former President of Mexico

Kurt Furgler

Former President of Switzerland

Valery Giscard d'Estaing

Former President of France

Felipe Gonzalez Marquez

Former Prime Minister of Spain

Kenneth Kaunda

Former President of Zambia

Lee Kuan Yew

Former Prime Minister of Singapore

Kiichi Miyazawa

Former Prime Minister of Japan

Misael Pastrana Borrero

Former President of Colombia (deceased in August)

Shimon Peres

Former Prime Minister of Israel

Maria de Lourdes Pintasilgo

Former Prime Minister of Portugal

Jose Sarney

Former President of Brazil

Shin Hyon Hwak

Former Prime Minister of the Republic of Korea

Kalevi Sorsa

Former Prime Minister of Finland

Pierre Elliott Trudeau

Former Prime Minister of Canada

Ola Ullsten

Former Prime Minister of Sweden

George Vassiliou

Former President of Cyprus

Franz Vranitzky

Former President of Austria

II. Supporters

Lester Brown, President, Worldwatch Institute

Andre Chouraqui, Professor in Israel

Takako Doi, President, Japan Socialist Democratic Party

William Laughlin, American entrepreneur

Rabbi Dr. J. Magonet, Principal of the Leo Baeck College

Robert S. McNamara, Former President, World Bank

Konrad Raiser, World Council of Churches

Paul Volcker, Chairman, James D. Wolfensohn Inc.

III. Participants (in preparatory meetings in Vienna, Austria in March 1996 and April 1997) and **special guests** (at the 15th Plenary Session in Noordwijk, The Netherlands in June 1997)

Hans Kueng (academic advisor to the project), Tübingen University

Thomas Axworthy (academic advisor to the project), CRB Foundation

Kim, Kyong-dong, (academic advisor to the project), Seoul National University

Cardinal Franz Koenig, Vienna, Austria

Anna Marie Aagaard, World Council of Churches

M. Shanti Aram (deceased in June), World Conference on Religion & Peace

A. T. Ariyaratne, Sarvodaya Movement of Sri Lanka

Julia Ching, University of Toronto

Hassan Hanali, University of Cairo

Nagaharu Hayabusa, The Asahi Shimbun

Yersu Kim, Division of Philosophy and Ethics, UNESCO

Peter Landesmann, European Academy of Sciences

Lee Seung-Yun, Former Deputy Prime Minister and Minister of Economic Planning Board of the Republic of Korea

Flora Lewis, International Herald Tribune
Liu, Xiao - feng, Institute of Sino-Christian Studies
Teri McLuhan, Canadian author
Isamu Miyazaki, Former State Minister, Economic Planning
Agency, Japan
James Ottley, Anglican observer at the United Nations
Richard Rorty, Stanford Humanities Center
L. M. Singvi, High Commissioner for India
Seiken Sugitara, House of Representatives of Japan
Koji Watanabe, Former Japanese Ambassador to Russia
Woo Seong-yong, Munhwa Ilbo
Alexander Yakovlev, Former Member, Presidential Council of
the Soviet Union

IV. Sponsors

Shinyaso Hoshino, President, National Institute for Research
Advancement
Ayako Sono, Chairperson Nippon Foundation
Kim, Woo-Joong, Chairman, Dae-Woo Corporation

A UNIVERSAL DECLARATION OF HUMAN RESPONSIBILITIES

Report on the Conclusions and Recommendations
by a High-level Expert Group Meeting,
Vienna, Austria (20-22 April 1997)
Chaired by Helmut Schmidt

It is time to talk about human responsibilities

The call by the Inter Action Council for a Universal Declaration of Human Resource Responsibilities is timely. Although traditionally we have spoken of human rights, and indeed the world has gone a long way in their international recognition and protection since the universal declaration of Human Rights was adopted by the United Nations in 1948, it is time now to initiate an equally important quest for the acceptance of human duties or obligation.

This emphasis of human obligations is necessary for several reasons. Of course, this idea is new only to some regions of the world; many societies have traditionally conceived of human relations in terms of obligations rather than rights. This is true, in general terms, for instance, for much of Eastern thought. While traditionally in the West, at least since the 17th Century age of enlightenment, the concepts of freedom and individuality have been emphasised, in the East, the notions of responsibility and community have prevailed. The fact that a Universal Declaration of Human Rights was drafted instead of Universal Declaration of Human Duties undoubtedly reflects the philosophical and cultural background of the document's drafters who, as is known, represented the Western powers who emerged victorious from the Second World War.

The concept of human obligations also serves to balance the notions of freedom and responsibility: while rights relate more to freedom, obligations are associated with responsibility. Despite this distinction, freedom and responsibility are interdependent. Responsibility, as a moral quality, serves as a natural, voluntary, check for freedom. In any society, freedom can never be exercised without limits. Thus, the more freedom we enjoy, the greater the responsibility we bear, toward others as well as ourselves. The more talents we possess, the bigger the responsibility we have to develop them to their fullest capacity. We must move away from the freedom of indifference towards the freedom of involvement.

The opposite is also true: as we develop our sense of responsibility, we increase our internal freedom by fortifying moral character. When freedom present us with different possibilities for action, including the choice to do right or wrong, a responsible moral character will ensure that the former will prevail.

Sadly, this relationship between freedom and responsibility is not always understood clearly. Some ideologies have placed greater importance on the concept of individual freedom, while other concentrate on an unquestioning commitment to the social group.

Without a proper balance, unrestricted freedom is as dangerously as imposed social responsibility. Get social injustices have resulted from extreme economic freedom and capitalist greed, while at the same time cruel oppression of peoples basic liberties has been justified in the name of society's interests or communist ideals.

Either extreme is undesirable. At present, with the disappearance of the East-West conflict and the end of the Cold War, human kind seems closer to the desired balance between freedom and responsibility. We have struggled for freedom and rights. It is now time to foster responsibility and human obligation.

The InterAction Council believes that globalisation of the world economy is matched by globalisation of the world's problems. Because global interdependence demands that we must live with each other in harmony, human beings need rules and constraints. Ethics are the minimum standards that make a collective life possible. Without ethics and self-restraint that are their result, humankind would revert to the survival of the fittest. The world is in need of an ethical base on which to stand.

Recognising this need, the InterAction Council began its search for universal ethical standards with a meeting of spiritual leaders and political leaders in March 1987 at La Civiltà Cattolica in Rome, Italy. The initiative was taken by the late Takco Fukuda, former Prime Minister of Japan who founded the InterAction Council in 1983. Again in 1996, the Council requested a report by high-level expert group on the subject of global ethical standards. The Council, at its Vancouver Plenary Meeting in May 1996, welcomed the report of this Group, which consisted of religious leaders from responsibility several faiths and experts, drawn from across the

globe. The findings of this report "In Search of Global Ethical Standards" demonstrated that the world faiths have much in common and the Council endorsed the recommendations that "in 1998, the 50th anniversary of the Universal Declaration of Human Rights, the United Nations should convene a conference to consider a Declaration of Human Obligations to complement the earlier crucial work on rights."

The initiative to draft a Universal Declaration of Human Responsibilities is not only a way of balancing freedom with responsibility, but also a means of reconciling ideologies and political views that were deemed antagonistic in the past. The basic premise, then, should be that human deserve the greatest possible amount of freedom, but also should develop their sense of responsibility to its fullest in order to correctly administer their freedom.

This is hardly a new idea. Throughout the millennia prophets, saints and sages have implored mankind to take its responsibilities seriously. In our century, for example, Mahatma Gandhi preached on the seven social sins.

- 1) Politics without principles
- 2) Commerce without morality
- 3) Wealth without work
- 4) Education without character
- 5) Science without humanity
- 6) Pleasure without conscience
- 7) Worship without sacrifice

Globalisation, however, has given new urgency to the teaching of Gandhi and other ethical leaders. Violence on our television screens is now transmitted by satellites across the planet. Speculation in far away financial markets can devastate local communities. The influence of private tycoons now approaches the power of governments and unlike elected politicians, there is no accountability for this private power except for their own personal sense of responsibility. Never has the world needed a declaration of human responsibilities more.

From Rights to Obligations

Because rights and duties are inextricably linked, the idea of a human right only makes sense if we acknowledge the duty of all people to respect it. Regardless of a particular society's values,

human relations are universally based on the existence of both rights and duties.

There is no need for a complex system of ethics to guide human action. There is one ancient rule 1 that, if truly followed, would ensure just human relations: the Golden Rule. In its negative form, the Golden Rule mandates that we not do to others what we do not wish be done to us. The positive form implies a more active and solitary role: Do unto others as you would have them do unto you.

Bearing in mind the Golden Rule, the Universal Declaration of Human Rights provides an ideal starting point from which to consider some of the main obligations which are a necessary complement to those rights.

If we have a right to life, then we have the obligation to respect life.

If we have a right to liberty, then we have the obligation to respect other people's liberty.

If we have a right to security, then we have the obligation to create the conditions for every human being to enjoy human security.

If we have a right to partake in our country's political process and elect our leaders, then we have the obligation to participate and ensure that the best leaders are chosen.

If we have a right to work under just and favourable conditions to provide a decent standard of living for ourselves and our families, we also have the obligation to perform to the best of our

If we have a right to freedom of thought, conscience and religion, we also have the obligation to respect others thoughts or religious principles.

If we have a right to be educated, then we have the obligation to learn as much as our capabilities allow us and, where possible share our knowledge and experience with others.

If we have a right to benefit from the earth's bounty, then we have the obligation to respect, care for and restore the earth and its natural resources.

As human beings, we have unlimited potential for self-

fulfilment. Thus we have the obligation to develop our physical, emotional, intellectual and spiritual capacities to their fullest. The importance of the concept of the responsibility towards attaining self-realisation cannot be overlooked.

The expert-group, which was convened in Vienna in April 1997, worked on a declaration of human responsibilities. The results of this work were summarised and condensed by the three academic advisors: Prof. Thomas Axworthy, Prof. Kim Kyong-dong and Prof. Hans Kung. Prof. Kung provided a very helpful first draft as the starting point for the discussion. They made recommendations to Helmut Schmidt, who chaired the meeting, Andries van Agt and Miguel de la Madrid. Oscar Aris, a member of the Council, who could not be present, contributed a welcome substantive paper.

The result of this work are contained in the draft proposal for the United Nations entitled "A Universal Declaration of Human Responsibilities." The group submits with pleasure the attached draft to the InterAction Council and the world community at large.

List of Participants

InterAction Council Members

H. E. Mr. Helmut Schmidt
H. E. Mr. Andries van Agt
H. E. Mr. Miguel de la Madrid Hurtado

Academic Advisors

Prof. Hans Kung, Tübingen University
Prof. Thomas Axworthy, Adjunct Faculty in Public Policy at
Harvard University
Prof. Kim Kyong-dong, Seoul National University

High-level Experts

Cardinal Franz Koenig, Vienna, Austria
Prof. Hassan Hanafi, University of Cairo
Dr. Ariyaratne, President of the Sarvodaya Movement of Sri Lanka
The Rt. James H. Ottley, Anglican observer at the United Nations
Dr. M. Aram, President, World Conference on Religion & Peace (MP, India)
Dr. Julia Ching (Representing Confucianism)
Dr. Anna-Marie Aagaard, World Council of Churches
Dr. Teri McLuhan, Author
Prof. Yersu Kim, Director of the Division of Philosophy and Ethics, UNESCO
Prof. Richard Rorty, Stanford Humanities Center
Prof. Peter Landesmann, European Academy of Sciences, Salzburg
Ambassador Koji Watanabe, Former Japanese Ambassador to Russia

Journalist

Ms. Flora Lewis, International Herald Tribune
Mr. Woo Seung-yong, Munhwa Hbo

Project Coordinator (IAC Tokyo Secretariat)
Keiko Atsumi

Annexure 9

Directions given in the Decisions of the Supreme Court of India based on Article 51A of the Constitution of India

**DECISIONS OF
SUPREME COURT OF INDIA
ON ARTICLE 51A**

RURAL LITIGATION AND ENTITLEMENT
KENDRA AND OTHERS
versus
STATE OF UTTAR PRADESH AND OTHERS
AND

Writ Petition No. 8821 of 1983 DEVAKI NANDAN PANDEY Versus
UNION OF INDIA AND OTHERS

Writ Petitions Nos. 8209 and 8821 of 1983, decided on December 18, 1986

Consciousness for environmental protection is of recent origin. The United Nations Conference on World Environment held in Stockholm in June 1972 and the follow-up action thereafter is spreading the awareness. Over thousands of years men had successfully exploiting the ecological system for his sustenance but with the growth of population the demand for land has increased and forest growth has been and is being cut down and man has started encroaching upon Nature and its assets. Scientific developments have made it possible and convenient for man to approach the places which were hitherto beyond his ken. The consequences of such interference with ecology and environment have now come to be realised. It is necessary that the Himalayas and the forest growth on the mountain range should be left uninterfered with so that that there may be sufficient quantity of rain. The top soil may be preserved without being eroded and the natural setting of the area may remain intact. We had commanded earlier to the State of Uttar Pradesh as also to the Union of India that afforestation activity may be carried out in the whole valley and the hills. We have been told that such activity has been undertaken. We are not oblivious of the fact that natural resources has got to be tapped for the purposes of social development but one cannot forget at the same time that tapping of resources have to be done with requisite attention and care so that ecology and environment may not be affected in any serious way; there may not be any depletion of water resources and long-term planning must be undertaken to keep up the national wealth. It has always to be remembered that these are permanent assets of mankind and are not intended to be exhausted in one generation.

20. We must place on record our appreciation of the steps taken by the Rural Litigation and Entitlement Kendra. But for this move, all that has happened perhaps may not have come. Preservation of the environment and keeping the ecological balance unaffected is a task which not only governments "out also every citizen must undertake. It is a social obligation and let us remind every Indian citizen that it is his fundamental duty as enshrined in Article 51 A (g) of the Constitution.

(1997) 2 Supreme Court Cases 267

(BEFORE J.S. VERMA AND B.N. KIRPAL, J.J.)

T.N. GODAVARMAN THIRUMULKPAD

Versus

UNION OF INDIA AND OTHERS

Writ Petitions (C) No.202 of 1995 with No. 171 of 1996

3. It has emerged at the hearing, that there is a misconception in certain quarters about the true scope of the Forest Conservation Act, 1980 (for short "the Act") and the meaning of the word "forest" used therein. There is also a resulting misconception about the need of prior approval of Central Government, as required by Section 2 of the Act. in respect of certain activities in the forest area which are more often of a commercial nature. It is necessary to clarify that position.

4. The Forest Conservation Act, 1980 was enacted with a view to check further deforestation which ultimately results in ecological imbalance; and therefore, the provisions made therein for the conservation of forests and for matters connected therewith, must apply to all forests irrespective of the nature of ownership or classification thereof. The word "forest" must be understood according to its dictionary meaning. This description covers all statutorily recognised forests, whether designated as reserved, protected or otherwise for the purpose of Section 2(i) of the Forest Conservation Act. The term "forest land" occurring in Section 2, will not only include "forest" as Government record irrespective of the ownership. This is how it has to be understood for the purpose of Section 2 of the Act. The provisions enacted in the Forest Conservation Act, 1980 for the conservation of forests and the matters connected therewith must apply clearly to all forests so understood irrespective of the ownership or classification thereof. This aspect has been made abundantly clear in the decision of this

Court in *Ambica Quarry Works v. State of Gujarat*, rural Litigation and Entitlement Kendra v State of UP and recently in the order dated 29-11-1996 (*Supreme Court Monitoring Committee v. Mussoorie Dehradun Development Authority*). The earlier decision of this Court in *State of Bihar v. Banshi Ram Modi* has, therefore, to be understood in the light of these subsequent decisions. We consider it necessary to reiterate this settled position emerging from the decisions of this Court to dispel the doubt, if any, in the perception of any State Government or authority. This has become necessary, also because of the stand taken on behalf of the State of Rajasthan, even at this late stage, relating to permissions granted for mining in such area which is clearly contrary to the decisions of this Court. It is reasonable to assume that any State Government which has failed to appreciate the correct position in law so far, will forthwith correct its stance and take the necessary remedial measures without any further delay.

We further direct as under:

I. GENERAL

1. In view of the meaning of the word "forest" in the Act, it is obvious that prior approval of the Central Government is required for any non-forest activity within the area of any "forest". In accordance with Section 2 of the Act, all on-going activity within any forest in any State throughout the country, without the prior approval of the Central Government, must cease forthwith. It is, therefore, clear that the running of saw mills of any kind including veneer or plywood mills, and mining of any mineral are non-forest purposes and are, therefore, not permissible without prior approval of the Central Government. Accordingly, any such activity is prima facie violation of the provisions of the Forest Conservation Act, 1980. Every State Government must promptly ensure total cessation of all such activities forthwith.

2. In addition to the above, in the tropical wet evergreen forests of Tirap and Changlang in the State of Arunachal Pradesh, there would be a complete ban on felling of any kind of trees therein because of their particular significance to maintain ecological balance needed to preserve bio-diversity. All saw mills, veneer mills and plywood mills in Tirap and Changlang in Arunachal Pradesh and within a distance of 100 kms from its border, in Assam, should also be closed immediately. The State Government of Arunachal Pradesh and Assam must ensure compliance of this direction.

3. The felling of trees in all forests is to remain suspended except in accordance with the working plans of the State Governments, as approved by the Central Government. In the absence of any working plan in any particular State, such as Arunachal Pradesh, where the permit system exists, the felling under the permits can be done only by the Forest Department of the State Government or the State Forest Corporation.

4. There shall be a complete ban on the movement of cut trees and timber from any of the seven North-Eastern States to other State of the country either by rail, road or waterways. The Indian Railways and the State Governments are directed to take all measures necessary to ensure strict compliance of this direction. This ban will riot apply to the movement of certified timber required for defence or other Government purposes. This ban will also not affect felling in any private plantation comprising of trees planted in any area which is not a forest.

5. Each State Government should constitute within one month an Expert Committee to:

- (i) Identify areas which are "forests", Irrespective of whether they are so notified, recognised or classified under any law, and irrespective of the ownership of the land of such forest.
- (ii) identify areas which were earlier forests but stand degraded, denuded or cleared; and
- (iii) identify areas covered by plantation trees belonging to the Government and those belonging to private persons.

6. Each State Government should within two months, file a report regarding:

- (i) the number of saw mills, veneer and plywood mills actually operating within the State, with particulars of their real ownership;
- (ii) the licensed and actual capacity of these mills for stock sawing;
- (iii) their proximity to the nearest forest
- (iv) their source of timber.

7. Each State Government should constitute within one month, an Expert Committee to assess:

- (i) the sustainable capacity of the forests of the State qua saw mills and timber-based industry;
- (ii) the number of existing saw mills which can safely be sustained in the State;

(iii) the optimum distance from the forest qua that State at which the saw mill should be located

8. The Expert Committee so constituted should be requested to give a report within one month of its being constituted.

9. Each State Government would constitute a Committee comprising of the Principal Chief Conservator of Forests and another Senior Officer to oversee the compliance of this order and file status reports.

II. FOR THE STATE OF JAMMU AND KASHMIR

1. There will be no felling of trees permitted in any "forest", public or private. This ban will not affect felling in any private plantations comprising of trees planted by private persons or the Social Forestry Department of the State of Jammu and Kashmir and in such plantations, felling will be strictly in accordance with law.

2. In "forests", the State Government may either departmentally or through the State Forest Corporation remove fallen trees or fell and remove diseased or dry standing timber, and that only from areas other than those notified under the Jammu and Kashmir Wild Life Protection Act, 1978 or any other law banning such felling or removal of trees.

3. For this purpose, the State Government will constitute an Expert Committee comprising of a representative being an IFS officer posted in the State of Jammu and Kashmir, a representative of the State Government, and two private experts of eminence and the Managing Director of the State Forest Corporation (as Member Secretary) who will fix the qualitative and quantitative norms for the felling of fallen trees, diseased and dry standing trees. The State shall ensure that the trees so felled and removed by it are strictly in accordance with these norms.

4. Any felling of trees in forest or otherwise or any clearance of land for execution of projects, shall be in strict compliance with the Jammu and Kashmir Forest Conservation Act, 1990 and any other laws applying thereto. However, any trees so felled and the disposal of such trees shall be done exclusively by the State Forest Corporation and no private agency will be permitted to deal with this aspect. This direction will also cover the submerged areas of the Thein Dam.

5. All timber obtained, as aforesaid or otherwise, shall be utilised within the State, preferably to meet the timber and fuel wood requirements of the local people, the Government and other local institutions.

6. The movement of trees or timber (sawn or otherwise) from the State shall, for the present, stand suspended, except for the use of DGS & D, Railways and Defence. Any such movement for such use will be effected after due certification, consignment-wise made by the Managing Director of the State Corporation which will include certification that the timber has come from State Forest Corporation sources; and

(b) be undertaken by either the Corporation itself, the Jammu and Kashmir Forest Department or the receiving agency.

7. The State of Jammu and Kashmir will file, preferably within one month from today, a detailed affidavit specifying the quantity of timber held by private persons purchased from State Forest Corporation Depots for transport outside the State (other than for consumption by the DGS & D, Railways and Defence). Further directions in this regard may be considered after the affidavit is filed.

8. No saw mills, veneer or plywood mill would be permitted to operate in this State at a distance of less than 8 kms from the boundary of any demarcated forest areas. Any existing mill failing in this belt should be relocated forthwith.

III. FOR THE STATE OF HIMACHAL PRADESH AND THE HILL REGIONS OF THE STATES OF UTTAR PRADESH AND WEST BENGAL

1. There will be no felling of trees permitted in any forest, public or private. This ban will not affect felling in any private plantation comprising of trees planted in any area which is not a "forest"; and which has not been converted from an earlier "forest". This ban will not apply to permits granted to the right-holders for their bona fide personal use in Himachal Pradesh.

2. In a "forest", the State Government may either departmentally or through the State Forest Corporation remove fallen trees or fell and remove diseased or dry, standing timber from areas other than those notified under Section 18 or Section 35 of the Wild Life

Protection Act, 1972 or any other Act banning such felling or removal of trees.

3. For this purpose, the State Government is to constitute an Expert Committee comprising a representative from MOEF, a representative of the State Government, two private experts of eminence and the MD of the State Forest Corporation (as Member Secretary), who will fix the qualitative and quantitative norms for the felling of fallen trees and diseased and standing, timber. The State shall ensure that the trees so felled and removed are in accordance with these norms.

4. Felling of trees in any forest or any clearance of forest land in execution of projects shall be in strict conformity with the Forest Conservation Act, 1980 and any other laws applying thereto. Moreover, any trees so felled, and the disposal of such trees shall be done exclusively by the State Forest Corporation and no private agency is to be involved in any aspect thereof.

IV. FOR THE STATE OF TAMIL NADU

1. There will be a complete ban of felling of trees in all "forest areas". This will however not apply to:

- (a) trees which have been planted and grown, and are not of spontaneous growth, and
- (b) are in areas which were not forests earlier, but were cleared for any reason.

2. The State Government, within four weeks from today, is to constitute a committee for identifying all "forests".

3. Those tribals who are part of the social forestry programme in respect of patta lands, other than forest may continue to grow and cut according to the Government Scheme provided that they grow and cut trees in accordance with the law applicable.

4. Insofar as the plantations (tea, coffee, cardamom etc.) are concerned, it is directed as under:

- (a) The felling of shade trees in these plantations will be.
 - (i) limited to trees which have been planted, and not those which have grown spontaneously;
 - (ii) limited to the species identified in the TANTEA Report.
 - (iii) in accordance with the recommendations of (Including to the extent recommended by) TANTEA: and

- (iv) under the supervision of the statutory committee constituted by the State Government.
- (b) Insofar as the fuel trees planted by the plantations for fuel wood outside the forest area are concerned, the State Government is directed to obtain within four weeks, a report from TANTEA as was done in the case of shade trees, and the further action for felling will be as per that report. Meanwhile, Eucalyptus and wattle trees in such area may be felled by them for their own use as permitted by the statutory committee.
- (c) The State Government is directed to ascertain and identify those areas of the plantation which are a "forest" and not active use as a plantation. No felling of any trees is however to be permitted in these areas, and sub-paras (b) and above will not apply to such areas.
- (d) There will be no further expansion of the plantations in a manner so as to involve encroachment upon (by way of clearing or otherwise) of "forests".

5. As far as the trees already cut, prior to the interim order of trails Court dated December 11, 1995 are concerned, the same may be permitted to be removed provided they were not so felled for Janmam land. The State Government would verify these trees and mark them suitably to ensure that this order is duly complied with. For the present, this is being permitted as a one-time measure.

6. Insofar as felling of any trees in Janmam lands is concerned (whether in plantations or otherwise), the ban on felling will operate subject to any order made in the Civil Appeals Nos. 367 to 375 of 1977 in CAS Nos. 1344-45 of 1976. After (the order is made in those civil appeals on the 1As pending therein, if necessary, this aspect may be re-examined.

7. This order is to operate and to be implemented, notwithstanding any order at variance, made or which may be made by any Government or any authority, Tribunal or court, including the High Court.

The earlier orders made in these matters shall be read, modified wherever necessary to this extent. This order is to continue, until further orders. This order will operate and be complied with by all concerned, notwithstanding any order at variance, made or which may be made hereafter, by any authority, including the Central or State Government or any court (including High Court) or Tribunal.

(1996) 5 Supreme Court Cases 647
(BEFORE KULDIP SINGH, FAIZAN UDDIN AND K.
VENKATASWAMI, J.J.)

VELLORE CITIZENS WELFARE FORUM

Versus

UNION OF INDIA AND OTHERS

Writ Petition(C) No.914 of 1991, decided on August 28, 1996

25. Keeping, in view the scenario discussed by us in this judgement, we order and direct as under:

1. The Central Government shall constitute an authority under Section 3(3) of the Environment (Protection) Act, 1986 and shall confer on the said authority all the powers necessary to deal with the situation created by the tanneries and other polluting industries in the State of Tamil Nadu. The authority shall be headed by a retired Judge of the High Court and it may have other members - preferably with expertise in the field of pollution control and environment protection - to be appointed by the Central Government. The Central Government shall confer on the Said authority the powers to issue directions under Section 5 of the Environment Act and for taking, measures with respect to the matters referred to in clauses (v), (vi) (vii), (viii), (ix), (x) and (xii) of sub-section (2) of Section 3. The Central Government shall constitute the authority, borne September 30, 1996.

8. We suspend the closure orders in respect of all the tanneries in the five districts of North Arcot Ambedkar, Erode Perlyar, Dindigul Anna, Trichi and Chengal M.G.R. We direct all the tanneries in the above five districts to set up CETPs or Individual Pollution Control Devices on or before November 30, 1996. Those connected with CETPs shall have to install in addition the primary devices in the tanneries. All the tanneries in the above five districts shall obtain the consent of the Board to function and operate with effect from December 15, 1996. The tanneries who are refused consent or who fail to obtain the consent of the Board by December 15, 1996 shall be closed forthwith.

9. We direct the Superintendent of Police and the Collector/District Magistrate/Deputy Commissioner of the district concerned to close all those tanneries with immediate effect who fail to obtain the consent from the Board by the said date. Such tanneries shall not

be reopened unless the authority, permits them to do so. It would be open to the authority to close such tanneries permanently or to direct their relocation.

10. Government Order- No. 213 dated March 30, 1989 I shall be enforced forthwith. No new industry listed in Annexure 1 to the notification shall be permitted to be set up within the prohibited area. The authority shall review the cases of all the industries which are already operating in the prohibited area and it would be open to the authority to direct the relocation of any of such industries.

11. The standards stipulated by the Board regarding total dissolved solids (TDS) and approved by the NEERI shall be operative. All the tanneries and other industries in the State of Tamil Nadu shall comply with the said standards. The quality of ambient waters has to be maintained through the standards stipulated by the Board.

(1997) 7 Supreme Court Cases 440

(BEFORE J.S. VERMA, C.J. AND B.N. KIRPAL AND S.P.
KURDUKAR, J.J.)

(Record of Proceedings)

Writ Petition (C) No. 202 of 1995

T.N. GODAVARMAN THIRUMULKPAD

Versus

UNION OF INDIA AND OTHERS

With

I.As. Nos. 1, 5, 5-A, 15, 16, 19-23, 25-27, 29, 33-36, 52, 54-75,
77-89

91-95, 100, 104-110, 112-118, 120-122, 124-206 of 1997 with
W.P. (C) No. 171 of 1996

ENVIRONMENT AWARENESS FORUM

Versus

STATE OF J&K AND OTHERS

With

Contempt Petition No. 539 of 1996, I.A s. Nos. 11, 11-A and 12
with W.P. (C) No. 897 of 1996

A. RANGARAJAN AND OTHERS

Versus

UNION OF INDIA AND OTHERS

Writ Petition (C) No. 202 of 1995 with I.As. Nos. 1, 5, 5-A, 15, 16, 19-23, 25-27, 29, 33, 36, 52, 54-75, 77-89, 91-95, 100, 104-110, 112-118, 120-122, 124-206 of 1997 with W.P. (C) No. 171 of 1996 with Contempt Petition No. 539 of 1996, I.As. Nos. 11, 11-A and 12 with W.P. (C) No. 897 of 1996 decided on May 8, 1997.

B. In relation to the seven North-Eastern States, it is further directed as under

- (a) The ban on felling and transportation of trees and timber as already imposed shall continue
- (b) As directed by the High-Powered Committee (HPC), the State Government shall take all measures necessary to bring the felled timber lying in the forest to the depots/storage points, and have it stacked.
- (c) After the process of inventorisation is over, the HPC may permit sawmills and other wood-based industry to utilise their own legitimate stocks of timber for conversion into finished produce. Such finished produce may then be disposed of by these mills under supervision of the HPC and the State Forest Department. The permission granted by the HPC to these mills shall be on suitable terms to ensure that no malpractice occurs in the future, and the mills shall be required to file an undertaking to comply with such terms, any breach thereof having the same consequence as a breach of the order of this Court.
- (d) After the inventory of the felled timber gathered at the depots/storage points is complete, the HPC may permit sale of such rounded timber for utilisation within the State to the extent it is from a lawful source. The movement of rounded timber within the State as well as the movement of finished products within and outside the State shall be under transit passes - the issuance and disposal of which will be under the overall supervision of the HPC.
- (e) No person other than a local inhabitant, a Forest Officer or Police Officer or any other personnel on official duty shall be permitted to enter the reserved forests except in accordance with permission in writing issued by the PCCE.

The ban on movement of cut trees, timber or veneer from any of the seven North-Eastern States to any other State in the country in any manner applies also to the growth and/or felled timber from any private plantation.

C. In case the time specified for completion of the task by any of

the Committees constituted pursuant to the orders of this Court has expired, the same is extended till the completion of the exercise by them or a period of three months.

D. We also clarify that the Government of Maharashtra is permitted to consider grant of permission/licence to the Pune District Leprosy Committee to run their sawmill. The State Government would consider the representations made to it and decide them expeditiously in accordance with and in conformity with the orders made by this Court.

(5) The earlier orders made by this Court would stand modified/clarified in the aforesaid manner."

(6). List on 14-7-1997 for fixing a date.
(1996) 3 Supreme Court Cases 212

(BEFORE B.P. JEEVAN REDDY AND B.N. KIRPAL, JJ.)
INDIAN COUNCIL FOR ENVIRO-LEGAL
ACTION AND OTHERS

Versus

UNION OF INDIA AND OTHERS

Writ Petitions (C) No. 967 of 1989 with Nos. 94 of 1990, 824 of 1993 and 76 of 1994t, decided on February 13, 1996

Directions

Accordingly, the following directions are made:

The Central Government shall determine the amount required for carrying out the remedial measures including the removal of sludge lying in and around the complex of Respondents 4 to 8, in the area affected in Village Bichhri and other adjacent villages on account of the production of acid and the discharges from the Sulphuric Acid Plant on Respondents 4 to 8. Chapters VI and VII in NEERI report (Submitted in 1994) shall be deemed to be the show-cause notice issued by the Central Government proposing the determination of the said amount. Within six weeks from this day, Respondents 4 to 8 shall submit their explanation, along with such material as they think appropriate in Support of their case, to the Secretary, Ministry of Environment and Forests, Government

of India, MEF. The Secretary shall thereupon determine the amount in consultation with the experts of his Ministry within six weeks of the submission of the explanation by the said respondents.

(1997) 6 Supreme Court Cases 241

(BEFORE J.S. VERMA, C.J. AND SUJATA V. MANOHAR AND
B.N. KIRPAL, J.J)

VISHAKA AND OTHERS

V/s

STATE OF RAJASTHAN AND OTHERS

Writ Petitions (Crl.) Nos. 666-70 of 1992, decided on August 13, 1997

The present writ petition was filed for the enforcement of the fundamental rights of working women under Articles 14, 19 and 21. It was brought as a class action by certain social activists and NGOs with the aim of assisting in finding suitable methods for realisation of the true concept of gender equality and to prevent sexual harassment of working women in all work places through judicial process and to fill the vacuum in existing legislation. The immediate cause for the filing of the writ petition was an incident of alleged brutal gang rape of a social worker in a village of Rajasthan. The notice of the petition was given to the State of Rajasthan and the Union of India and others Council who appeared before the Supreme Court rendered needed assistance to the Court to deal with the matter. Disposing of the writ petition Held:

Each incident of sexual harassment of woman at work place results in violation of the fundamental rights of "Gender Equality" and the "Right to Life and Liberty. It is a clear violation of the rights under Articles 14, 15 and 21 of the Constitution. One of the logical consequences of such an incident is also the violation of the victim's fundamental right under Article 19(1)(g). The meaning and content of fundamental rights guaranteed in the Constitution of India are of sufficient magnitude to encompass all the facets of gender equality including prevention of sexual harassment or abuse.

Gender equality includes protection from sexual harassment and right to work with dignity, which is a universally recognised basic human right. The common minimum requirement of this right has

received global acceptance. In the absence of domestic law occupying the field, to formulate effective measures to check the evil of sexual harassment of working women at all workplaces, the contexts of international conventions and norms are significant for the purpose of interpretation of the guarantee of gender equality, right to work with human dignity in Articles 14, 15, 19 (1) (g) and 21 of the Constitution and the safeguards against sexual implicit therein, and for; the formulation of guidelines to achieve this purpose. Any International convention not inconsistent with the fundamental rights and in harmony with its spirit must be read into these provisions to enlarge the meaning and content thereof, to promote the object of the constitutional guarantee. This is implicit from Article 51(c) and the enabling power of Parliament to enact laws for implementing the international conventions and norms by virtue of Article 253 read with Entry 14 of the Union List in Seventh Schedule of the Constitution. (Paras 10, 7 and 14)

Minister for Immigration and Ethnic Affairs v. Teoh, 128 Aus LR 353; Nilabati Behera v. State of Orissa, (1993) 2 SCC 746; 1993 SCC (Cri) 527, relied on

Such violations, therefore, attract the remedy under Article 32 for the enforcement of these fundamental rights of women. This class action under Article 32 of the Constitution is for this reason. A writ of mandamus in such a situation, if it is to be effective, needs to be accompanied by directions for prevention; as the violation of fundamental rights of this kind is a recurring phenomenon. The fundamental right to carry on any occupation, trade or profession depends on the availability of a "safe" working environment. Right to life means life with dignity. The primary responsibility for ensuring such safety and dignity through suitable Legislation, and the creation of a mechanism for its enforcement, is of the legislature and the executive. When, however, instances of sexual harassment resulting in violation of fundamental rights of women workers under Articles 14, 19 and 21 are brought before for redress under Article 32, an effective redressal requires that some guidelines should be laid down for the protection of these rights to fill the legislative vacuum. By virtue of Article 73 the executive power of the Union is available till Parliament enacts legislation to expressly provide measures needed to curb the evil. (Paras 3 and 7)

Thus, the power of the Supreme Court under Article 32 for enforcement of the fundamental rights and the executive power of

the Union have to meet the challenge to protect the working women from sexual harassment and to make their fundamental rights meaningful. Governance of the society by the rule of law mandates this requirement as a logical concomitant of the constitutional scheme. The obligation of the Supreme Court under Article 32 for the enforcement of the fundamental rights in the absence of legislation must be viewed along with the role of judiciary envisaged in the Beijing Statement of Principles of the Independence of the Judiciary in the LAWASIA region. These principles were accepted by the Chief Justices of Asia and the Pacific at Beijing in 1995 as those representing the minimum standards necessary to be observed in order to maintain the independence and effective functioning of the judiciary. (Paras 8 and 11)

Some provisions in the "Convention on the Elimination of All Forms of Discrimination against Women" (Articles 11 and 24) as also the general recommendations of CEDAW in this context (Articles 11, 22, 23, 24), as ratified the Resolution on 25-6-1993 with some reservations which are not material in the present context, are of significance. At the Fourth World Conference on Women in Beijing, the Government of India has also made an official commitment, inter alia, to formulate and operationalize a national policy on women which will continuously guide and inform action at every level and in every sector', to set up a Commission for Women's Rights to act as a public defender of women's human rights; to institutionalise a national level mechanism to monitor the implementation of the Platform for Action. Therefore, reliance can be placed on the above for the purpose of construing the nature and ambit of constitutional guarantee of gender equality in our Constitution (Paras 12 and 13) .

In view of the above, and in the absence of enacted law to provide for effective enforcement of the basic human right of gender equality and guarantee against sexual harassment and abuse, more particularly against sexual harassment at workplaces, guidelines and norms are hereby laid down for strict observance at all workplaces or other institutions, until a legislation is enacted for the purpose. This is done in exercise of the power available under Article 32 for enforcement of the fundamental rights and it is further emphasised that this would be treated as the law declared by the Supreme Court under Article 141 of the Constitution. (Paras 16 and 17)

The GUIDELINES and NORMS prescribed herein are as under:

HAVING REGARD to the definition of "human rights" in Section 2(d) of the Protection of Human Rights Act, 1993,

TAKING NOTE of the fact that the present civil and penal laws in India do not adequately provide for specific protection of women from sexual harassment in workplaces and that enactment of such legislation will take considerable time,

It is necessary and expedient for employers in workplaces as well as other responsible persons or institutions to observe certain guidelines to ensure the prevention of sexual harassment of women:

1. Duty of the employer or other responsible persons in workplaces and other institutions:

It shall be the duty of the employer or other responsible persons in workplaces or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts of sexual harassment by taking all steps required.

2. Definition:

For this purpose, sexual harassment includes such unwelcome sexual determined behaviour (whether directly or by implication) as:

- (a) physical contact and advances;
- (b) a demand or request for sexual favours;
- (c) sexually-coloured remarks;
- (d) showing pornography;
- (e) any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

Where any of these acts is committed in circumstances where under the victim of such conduct has a reasonable apprehension that in relation to the victim's employment or work whether she is drawing salary, or honorarium or voluntary, whether in government, public or private enterprise such conduct can be humiliating and make" constitute a health and safety problem. It is discriminatory for instance when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment or work including recruiting or promotion or when it creates a hostile work environment. Adverse consequences might be visited if the victim does not consent to the conduct in question or raises any objection thereto.

3. Preventive steps:

All employers or persons in charge of workplace whether in the public or private sector should take appropriate steps to prevent sexual harass Without prejudice to the generality of this obligation they should take following steps:

- (a) Express prohibition of sexual harassment as defined above at the workplace should be notified, published and circulated in appropriate ways.
- (b) The rules/regulations of government and public sector bodies relating to conduct and discipline should include rules/regulations prohibiting sexual harassment and provide for appropriate penalties in such rules against the offender.
- (c) As regards private employers steps should be taken to include the aforesaid prohibitions in the standing orders under the Industrial Employment (Standing Orders) Act, 1946.

Appropriate work conditions should be provided in respect of work, leisure, health and hygiene to further ensure that there is no hostile environment towards women at workplaces and no woman employee should have reasonable grounds to believe that she is disadvantaged in connection with her employment.

Criminal proceedings:

Where such conduct amounts to a specific offence under the Indian Penal Code or under any other law, the employer shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority.

In particular, it should ensure that victims, or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment.. The victims of sexual harassment should have the option to seek transfer of the perpetrator or their own transfer.

5. Disciplinary action:

Where such conduct amounts to misconduct in employment as defined by the relevant service rules, appropriate disciplinary action should be initiated by the employer in accordance with those rules.

Complaint mechanism:

Whether or not such conduct constitutes an offence under law or a breach of the service rules, an appropriate complaint mechanism should be created in the employer's organization for redress of the complaint made by the victim. Such complaint mechanism should ensure time-bound treatment of complaints.

Complaints Committee:

The complaint mechanism, referred to in (6) above, should be adequate to provide, where necessary, a Complaints Committee, a special counsellor or other support service, including the maintenance of confidentiality.

The Complaints Committee should be headed by a woman and not less than half of its members should be women. Further, to prevent the possibility of any undue pressure or influence from senior levels, such Complaints Committee should involve a third party, either NGO or other body who is familiar with the issue of sexual harassment.

The Complaints Committee must make an annual report to the Government Department concerned of the complaints and action taken by them.

The employers and person-in-charge will also report on the compliance with the aforesaid guidelines including on the reports of the Complaints Committee to the Government Department.

8. Workers' initiative:

Employees should be allowed to raise issues of sexual harassment workers' meeting and in other appropriate forum and it should be affirmatively discussed in employer-employee meetings.

9. Awareness:

Awareness of the rights of female employees in this regard should be created in particular by prominently notifying the guidelines (and appropriate legislation when enacted on the subject) in a suitable manner.

Third-party harassment:

Where sexual harassment occurs as a result of an act or omission

by any third party or outsider, the employer and person-in-charge will take all necessary and reasonable to assist the affected person in terms of support preventive action.

11. The Central/State Governments are requested to consider adopting suitable measures including legislation to ensure that the guidelines laid down by this order are also observed by the employers in private sector.

12. These guidelines will not prejudice any rights available under the Protection of Human Rights Act, 1993. These directions would be binding and enforceable in law until suitable legislation is enacted to occupy the field.

(Para 18 (R-M/1837/CR

Advocates who appeared in this case:

FS. Nariman, Senior Advocate (Ms Meenakshi Arora and Ms Niti Dixit, Advocates with him) for the Petitioners; T.R. Andhyarujina, Solicitor General (Mukul Mudgal, Ms Suvira Lal, C.VS. Rao, K.S. Bhati and M.K. Singh, Advocates, with him) for the Respondents. Chronological at of cases cited

1. (1 993) 2 SCC 746: 1993 SCC (Cri) 527, Nilabati Behera v/s State of Orissa

2. 128AusLR353, Minister for immigration and Ethnic Affairs v. Teoh

The Judgement of the Court was delivered by VERMA, C.J.- This writ petition has been filed for the enforcement the fundamental rights of working women under Articles 14, 19, 21 of the Constitution of India in view of the prevailing climate in which the violation of these rights is not uncommon. With the increase. Awareness and emphasis on gender justice, there is increase in the effort to guard giants such violations; and the resentment towards incidence. Of sexual harassment is also increasing. The present petition has been brought as a class action by certain social activists and NGOs with the aim of focussing attention towards this societal aberration, and assisting in finding suitable methods for realisation of the true concept of 'gender equality'; and to prevent sexual harassment of working women in all workplaces through judicial process, to fill the vacuum in existing legislation.

2. The immediate cause for the filing of this writ petition is an incident of alleged brutal gang rape of a social worker in a village of

Rajasthan. The incident is the subject-matter of a separate criminal action and no further mention of it, by us, is necessary. The incident reveals the hazard to which working woman may be exposed and the depravity to which sexual harassment can degenerate and the urgency for safeguards by an alternative mechanism in the absence of legislative measures. In the absence of legislative measures, the need is to find an effective alternative mechanism to fulfil this felt and urgent social need.

5. Each such incident results in violation of the fundamental rights of 'Gender Equality' and the "Right to Life and Liberty". It is a clear violation rights under Articles 14, 15 and 21 of the Constitution. One of the logical consequences of such an incident is also the violation of the victim's fundamental right under Article 19(1)(g) "to practise any profession or to carry out any occupation, trade or business". Such violations, therefore, attract the remedy under Article 32 for the enforcement of these fundamental rights of women. This class action under Article 32 of the Constitution is for this reason. A writ of mandamus in such a situation, if it is to be effective, needs to be accompanied by directions for prevention, as the violation of fundamental rights of this kind is a recurring phenomenon. The fundamental to carry on any occupation, trade or profession depends on the availability of a "safe" working environment. Right to life means life with dignity. The primary responsibility for ensuring such safety and dignity through suitable legislation, and the creation of a mechanism for its enforcement, is of the legislature and the executive. When, however, instances of sexual harassment resulting in violation of fundamental rights of women workers under Articles 14, 19 and 21 are brought before us for redress under Article 32, an effective redressal requires that some guidelines should be laid down for the protection of these rights to fill the legislative vacuum.

6. The notice of the petition was given to the State of Rajasthan and the Union of India. The learned Solicitor General appeared for the Union of India and rendered valuable assistance in the true spirit of a law officer to help us find a proper solution to this social problem of considerable magnitude. In addition to Ms Meenakshi Arora and Ms Naina Kapur who assisted the Court with full commitment, Shri Fali S. Nariman appeared as amicus curiae and rendered great assistance. We place on record our great appreciation for every counsel who appeared in the case and rendered the needed assistance to the Court which has enabled us to deal with this unusual matter in the manner considered appropriate for a cause of this nature.

5. Apart from Article 32 of the Constitution of India, we may refer to some other provisions which envisage judicial intervention for eradication of this social evil. Some provisions in the Constitution in addition to Articles 14, 19(1)(g) and 21, which have relevance are:

Article 15:

"15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.-(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

(2) * * *

(3) Nothing in this article shall prevent the State from making any special provision for women and children."

Article 42:

"42. Provision for just and humane conditions of work and maternity relief.-The State shall make provision for securing just and humane conditions of work and for maternity relief."

Article 51 -A:

"51-A. Fundamental duties.-It shall be the duty of every citizen, of India-

(a) to abide by the Constitution and respect its ideals and institutions,

(b)-(d) * * *

(e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the, dignity of women;"

6. Before we refer to the international conventions and norms having relevance in this field and the manner in which they assume significance in application and judicial interpretation, we may advert to some other provisions in the Constitution which permit such use. These provisions are Article 51:

"51. Promotion of international peace and security.-The State shall endeavour to-

(a)-(b)

*

*

*

*

(c) foster respect for international law and treaty obligations in the dealings of organised peoples with one another: and

*

*

*

*

Article, 253:

"253. Legislation for giving effect to international agreements Notwithstanding anything in the foregoing provisions of this Chapter Parliament has power to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body."

Seventh Schedule:

"List 1 - Union List

14. Entering into treaties and agreements with foreign countries and implementing of treaties, agreements and conventions with foreign countries."

7. In the absence of domestic law occupying the field, to formulate effective measures to check the evil of sexual harassment of working women at all workplaces, the contents of international conventions and norms are significant for the purpose of interpretation of the guarantee of gender equality, right to work with human dignity in Articles 14, 15, 19(1)(g) 21 of the Constitution and the safeguards against sexual harassment implicit therein. Any international convention not inconsistent with the fundamental rights and in harmony with its spirit must be read into these provisions to enlarge the meaning and content thereof, to promote the object of the constitutional guarantee. This is implicit from Article 51(c) and the enabling power of Parliament to enact laws for implementing the international conventions and norms by virtue of Article 253 read with Entry 14 of the Union List in Seventh Schedule of the Constitution. Article 73 also is relevant. It provides that the executive power of the Union shall extend to the matters with respect to which Parliament has power to make laws. The executive power

of the Union is, therefore, available till Parliament enacts legislation to expressly provide measures needed to curb the evil.

Thus, the power of this Court under Article 32 for enforcement of the fundamental rights and the executive power of the Union have to meet the challenge to protect the working women from sexual harassment and to make their fundamental rights meaningful. Governance of the society by the rule of law mandates this requirement as a logical concomitant of the constitutional scheme. The exercise performed by the Court in this matter is this common perception shared with the learned Solicitor General and other members of the Bar who rendered valuable assistance in the performance of this difficult task in public interest.

The progress made at each hearing culminated in the formulation of guidelines to which the Union of India gave its consent through the learned Solicitor General, indicating that these should be the guidelines and norms declared by this Court to govern the behaviour of the employers and all others at the workplaces to curb this social evil.

10. Gender equality includes protection from sexual harassment and right to work with dignity, which is a universally recognised basic human right. The common minimum requirement of this right has received global acceptance. The international conventions and norms are, therefore, of great significance in the formulation of the guidelines to achieve this purpose.

11. The obligation of this Court under Article 32 of the Constitution for enforcement of these fundamental rights in the absence of legislation must be viewed along with the role of judiciary envisaged in the Beijing Statement of Principles of the Independence of the Judiciary in the LAWASIA region. These principles were accepted by the Chief Justices of Asia and the Pacific at Beijing in 1995 as those representing the minimum standards necessary to be observed in order to maintain the independence and effective functioning of the judiciary. The objectives of the judiciary mentioned in the Beijing Statement are:

“Objectives of the Judiciary:

10. The objectives and functions of the Judiciary include the following:

- (a) to ensure that all persons are able to live securely under the rule of law;
- (b) to promote, within the proper limits of the judicial function,

- (c) the observance and the attainment of human rights; and to administer the law impartially among persons and between persons and the State."

12. Some provisions in the "Convention on the Elimination of All Forms of Discrimination against Women", of significance in the present context are:

Article 11:

"1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) The right to work as an inalienable right of all human beings

* * * * *

(f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

* * * *

Article 24:

States Parties undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognised in the present Convention."

13. The general recommendations of CEDAW in this context in respect of Article 11 are:

"Violence and equality in employment:

22. Equality in employment can be seriously impaired when women are subjected to gender specific violence, such as sexual harassment in the workplace.

23. Sexual harassment includes such unwelcome sexually determined behaviour as physical contacts and advances, sexually coloured remarks, showing pornography and sexual demands whether by words or actions. Such conduct can be humiliating

constitute a health and safety problem; it is discriminatory when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment, recruiting or promotion, or when it creates a hostile working environment. Effective complaints, procedures and remedies, including compensation, should be provided.

24. States should include in their reports information about sexual harassment, and on measures to protect women from sexual harassment and other forms of violence of coercion in the workplace."

The Government of India has ratified the above Resolution on , 25-6-199 with some reservations which are not material in the present context. At the Fourth World Conference on Women in Beijing, the Government of India has also made an official commitment, inter alia, to formulate and operationalize a national policy on women which will continuously guide action at every level and in every sector; to set up a Commission Women's Rights to act as a public defender of women's human rights; to institutionalise a national level mechanism to monitor the implementation of the Platform for Action. We have, therefore, no hesitation in placing reliance in the above for the purpose of construing the nature and ambit of constitutional guarantee of gender equality in our Constitution.

14. The meaning and content of the fundamental rights guaranteed in the Constitution of India are of sufficient amplitude to encompass all the facets gender quality including prevention of sexual harassment or abuse. Independence of judiciary forms a part of our constitutional scheme. The international conventions and norms are to be read into them in the absence of enacted domestic law occupying the field when there is no inconsistency between them. It is now an accepted rule of judicial construction that regard must be had to international conventions and norms for construing domestic law when there is no inconsistency between them and there is a void in the domestic law. The High Court of Australia in *Minister for Immigration and Ethnic Affairs v. Teoh*¹ has recognised the concept of legitimate expectation of its observance in the absence of a contrary legislative provision, even in the absence of a Bill of Rights in the Constitution of Australia.

15. In *Nilabati Behera v. State of Orissa*² a provision in the ICCPR was referred to support the view taken that "an enforceable right to compensation is not alien to the concept of enforcement of a

guaranteed right", as a public law remedy under Article 32, distinct from the private law remedy in torts. There is no reason why these international conventions and norms cannot, therefore, be used for construing the fundamental rights expressly guaranteed in the Constitution of India which embody the basic concept of gender equality in all spheres of human activity.

16. In view of the above, an absence of enacted law to provide for the effective enforcement of the basic human rights of gender equality and guarantee against sexual harassment and abuse, more particularly against sexual harassment at workplaces, we lay down the guidelines and norms specified hereinafter for due observance at all workplaces or other institutions, until a legislation is enacted for the purpose. This is done in exercise of the power available under Article 32 of the Constitution for enforcement of the fundamental rights and it is further emphasised that this would be treated as the law declared by this Court under Article 141 of the constitution.

17. The GUIDELINES and NORMS prescribed herein are as under: HAVING REGARD to the definition of "human rights" in Section 2(d) of the Protection of Human Rights Act, 1993.

TAKING NOTE of the fact that the present civil and penal laws in India do not adequately provide for specific protection of women from sexual harassment in workplaces and that enactment of such legislation will take considerable time.

It is necessary and expedient for employers in workplaces as well as other responsible persons or institutions to observe certain guidelines to ensure the prevention of sexual harassment of women:

Duty of the employer or other responsible persons in workplaces and other institutions:

It shall be the duty of the employer or other responsible persons in workplaces or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts of sexual harassment by taking all steps required.

2. Definition:

For this purpose, sexual harassment includes such unwelcome sexually determined behaviour (whether directly or by implication) as:

- (a) physical contact and advances;
- (b) a demand or request for sexual favours;
- (c) sexually-coloured remarks;
- (d) showing pornography;

any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

Where any of these acts is committed in circumstances where under the victim of such conduct has a reasonable apprehension that in relation to the victim's employment or work whether she is drawing salary, or honorarium or voluntary, whether in government, public or private enterprise such conduct can be humiliating and may constitute a health and safety problem. It is discriminatory for instance when the women has reasonable grounds to believe that her objection would disadvantage her in connection with her employment or work including recruiting or promotion or when it creates a hostile work environment. Adverse consequences might, be visited if the victim does not consent to the conduct in question or raises any objection thereto.

3. Preventive steps:

All employers or persons in charge of workplace whether in the public or private sector should take appropriate steps to prevent sexual harassment. Without prejudice to the generality of this obligation they should take the following steps:

- (a) Express prohibition of sexual harassment as defined above at the workplace should be notified, published and circulated in appropriate ways.
- (b) The rules/regulations of government and public sector bodies relating to conduct and discipline should include rules/regulations prohibiting sexual harassment and provide for appropriate penalties in such rules against the offender.
- (c) As regards private employers steps should be taken to include the aforesaid prohibitions in the standing orders under the Industrial Employment (Standing Orders) Act, 1946.

Appropriate work conditions should be provided in respect of work, leisure, health and hygiene to further ensure that there is no hostile environment towards women at workplaces and no woman employee

should have reasonable grounds to believe that she is disadvantaged in connection with her employment.

4. Criminal proceedings:

Where such conduct amounts to a specific offence under the Indian Penal Code or under any other law, the employer shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority.

In particular, it should ensure that victims, or witnesses are not victimised or discriminated against while dealing with complaints of sexual harassment. The victims of sexual harassment should have the option to seek transfer of the perpetrator, or their own transfer.

5. Disciplinary action:

Where such conduct amounts to misconduct in employment as defined by the relevant service rules, appropriate disciplinary action should be initiated by the employer in accordance with those rules.

6. Complaint mechanism:

Whether or not such conduct constitutes an offence under law or a breach of the service rules, an appropriate complaint mechanism should be created in the employer's organization for redress of the complaint made by the victim. Such complaint mechanism should ensure time bound treatment of complaints.

7. Complaints Committee:

The complaint mechanism, referred to in (6) above, should be adequate to provide, where necessary, a Complaints Committee, a special counsellor or other support service, including the maintenance of confidentiality.

The Complaints Committee should be headed by a woman and not less than half of its members should be women. Further, to prevent the possibility of any undue pressure or influence from senior levels, such Complaints Committee should involve a third party, either NGO or other body who is familiar with the issue of sexual harassment.

The Complaints Committee must make an annual report to the Government Department concerned of the complaints and action taken by them.

The employers and person-in-charge will also report on the compliance with the aforesaid guidelines including on the reports of the Complaints Committee to the Government Department.

8. Workers' initiative:

Employees should be allowed to raise issues of sexual harassment; at workers' meeting and in other appropriate forum and it should be affirmatively discussed in employer-employee meetings.

9. Awareness:

Awareness of the rights of female employees in this regard should be created in particular by prominently notifying the guidelines (and appropriate legislation when enacted on the subject) in a suite manner.

10. Third-party harassment:

Where sexual harassment occurs as a result of an act or omission by any third party or outsider, the employer and person-in-charge will take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.

11. The Central/State Governments are requested to consider adopting suitable measures including legislation to ensure that the guidelines laid down by this order are also observed by the employers, in private sector.

12. These guidelines will not prejudice any rights available under the Protection of Human Rights Act, 1993.

18. Accordingly, we direct that the above guidelines and norms would be strictly observed in all workplaces for the preservation and enforcement of the right to gender equality of the working women. These directions would be binding and enforceable in law until suitable legislation is enacted to occupy the field. These writ petitions are disposed of, accordingly.

(1997) 3 Supreme Court Cases 549

(BEFORE A.M. AHMADI, C.J. AND SUJATA V.MANO HAR
AND K. VENKATASWAMI, J.J)

ANIMAL AND ENVIRONMENT LEGAL DEFENCE FUND
V/S

UNION OF INDIA AND OTHERS

Writ Petition (C) No.785 of 1996, decided on March 5, 1997

Since all the claims in respect of the National Park area in the State of Madhya Pradesh as notified under (Section 35(1) have been taken care of, it is necessary that a final notification under Section 35(4) is issued by the state Government as expeditiously as possible. In the case of Pradeep Krishen v. Union of India this Court had pointed out that the total forest cover in our country is far less than the ideal minimum of 1/3rd of the total land. We cannot, therefore, afford any further shrinkage in the forest cover in our country. If one of the reasons for this shrinkage is the entry of villagers and tribals living in and around the sanctuaries and the National Park there can be no doubt that urgent steps must be taken to prevent any destruction or damage to the environment, the flora and fauna and wild life in those areas. The State Government is, therefore, expected to act with a sense of urgency in matters enjoined by Article 48-A of the Constitution keeping in mind the duty enshrined in Article 51-A(g). We, therefore, direct that the State Government of the State of Madhya Pradesh shall expeditiously issue the final notification under Section 35(4) of the Wild Life (Protection) Act, 1972 in respect of the area of the Pench National Park falling within the State of Madhya Pradesh.

The petition is disposed of with these directions.

(1997) 2 Supreme Court Cases 87

(BEFORE KULDIP SINGH AND S. SAGHIR AHMAD, J.J.)
S, JAGANNATH Vs
UNION OF INDIA

We, therefore, order and direct as under:

1. The Central Government shall constitute an authority under Section 8(3) of the Environment (Protection) Act, 1986 and shall confer on the said authority all the powers necessary to protect the ecologically fragile, coastal areas, seashore, waterfront and other

coastal areas and specially to deal with the situation created by the shrimp culture industry in the coastal States/Union Territories. The authority shall be headed by a retired Judge of a High Court. Other members preferably with expertise in the field of aquaculture, Pollution control and environment protection shall be appointed by the Central Government. The Central Government shall confer on the said authority the powers to issue directions under Section 5 of the Act and for taking measures with respect to the matters referred to in clauses (v), (vi), (vii), (viii), (ix), (X) and (xii) of sub-section (2) of Section 3. The Central Government shall constitute the authority before 15-1-1997.

2. The authority so constituted by the Central Government shall implement 'the Precautionary Principle' and 'the Polluter Pays Principle'.

3. The shrimp culture industry/the shrimp ponds are covered by the prohibition contained in para 2(i) of the CRZ Notification. No shrimp culture pond can be constructed or set up within the coastal regulation zone as defined in the CRZ notification. This shall be applicable to all seas, bays, estuaries, creeks, rivers and backwaters. This direction shall not apply to traditional and improved traditional types of technologies (as defined in Alagarwami Report) which are practised in the coastal low-lying areas.

4. All aquaculture industries/shrimp culture industries/shrimp culture ponds operating/set up in the coastal regulation zone as defined under the CRZ Notification shall be demolished and removed from the said area before 31-3-1997. We direct the Superintendent of Police, Deputy Commissioner of Police and the District Magistrate/Collector of the area to enforce this direction and close/demolish all aquaculture industries/shrimp culture industries, shrimp culture ponds on or below 31-3-1997. A compliance report in this respect shall be filed in this Court by these authorities before 15-4-1997.

5. The farmers who are operating traditional and improved traditional systems of aquaculture may adopt improved technology for increased production, productivity and return with prior approval of authority" constituted by this order.

6. The agricultural lands, salt pan lands, mangroves, wetlands, lands, land for village common purpose and the land meant for public purposes shall not be used/converted for construction of shrimp culture ponds.

7. No aquaculture industry/shrimp culture industry/shrimp ponds shall be constructed/set up within 1000 mts of Chilka Lake Pulicat Lake (including Bird Sanctuaries namely Yadurapati Nelapattu).

8. Aquaculture industry/shrimp culture industry/shrimp ponds already operating and functioning in the said area of 1000 mts. shall be closed and demolished before 31-3-1997. WP direct the Superintendent of Police/Deputy Commissioner of Police and the District Magistrate/Collector of the area to enforce this direction close/demolish all aquaculture industries/shrimp culture industries shrimp culture ponds on or before 31.3.1997. A compliance report in this respect shall be filed in this Court by these authorities before 15-4-1997.

9. Aquaculture industry/shrimp culture industry/shrimp culture ponds other than traditional and improved traditional may be set UP/ constructed outside the coastal regulation zone as defined by the CRZ Notification and outside 1000 mts of Chilka and Pulicat Lakes with the prior approval of the Authority' as constituted by this Court. Such industries which are already operating in the said areas shall obtain authorisation from the "Authority" before 30-4-1997 failing which the industry concerned shall stop functioning with effect from the said date. We further direct that any aquaculture activity including intensive and, semi-intensive which has the effect of causing salinity of soil, or the drinking water or wells and/or by the use of chemical feeds increases, shrimp or prawn production with consequent increase in sedimentation, which, on putrefaction is a potential health hazard, apart from causing, salutation, turgidity of water courses and estuaries with detrimental implication on local fauna and flora shall not be allowed by the aforesaid Authority.

10. Aquaculture industry/shrimp culture industry/shrimp culture, ponds which have been functioning/operating within the coastal regulation zone as defined by the CRZ Notification and within 1000 mts from Chilka and Pulicat Lakes shall be liable to compensate the affected persons on the basis of the "Polluter Pays" principle.

11. The Authority shall, with the help of expert opinion and after giving opportunity to the polluters concerned assess the loss to the ecology/environment in the affected areas and shall also identify the individuals/families who have suffered because of the pollution

and shall assess the compensation to be paid to the said individuals/families. The Authority shall further determine the compensation to be recovered from the polluters as cost of reversing the damaged environment. The authority shall lay down just and fair procedure for completing the exercise.

12. The Authority shall compute the compensation under two heads namely, for reversing the ecology and for payment to individuals. A statement showing the total amount to be recovered, the names of the polluters from whom the amount is to be recovered, the amount to be recovered from each polluter, the persons to whom the compensation is to be paid and the amount payable to each of them shall be forwarded to the Collector/District Magistrate of the area concerned. The Collector/District Magistrate shall recover the amount from the polluters, if necessary, as arrears of land revenue. He shall, disburse the compensation awarded by the authority to the affected persons/families.

13. We further direct that any violation or non-compliance of the directions of this Court shall attract the provisions of the Contempt of Courts Act in addition.

14. The compensation amount recovered from the polluters shall be deposited under a separate head called "Environment Protection Fund and shall be utilised for compensating the affected persons as identified by the Authority and also for restoring the damaged environment.

15. The authority, in consultation with expert bodies like NEERI, Central Pollution Control Board, respective State Pollution Control Boards shall frame scheme/schemes for reversing the damage caused to the ecology and environment by pollution in the coastal States/Union Territories. The scheme/schemes so framed shall be executed by the respective State Governments/Union Territory Governments under the supervision of the Central Government: The expenditure shall be met from the 'Environment Protection Fund' and from other sources provided by the respective State Governments/Union Territory Governments and the Central Government.

The workmen employed in the shrimp culture industries which are to be closed in terms of this order, shall be deemed to have been retrenched with effect from 30-4-1997 provided they have been in continuous service (as defined in Section 25-B of the Industrial

Disputes Act, 1947) for not less than one year in the industry concerned before the said date. They shall be paid compensation in terms of Section 25-F(b) of the Industrial Disputes Act, 1947. These workmen shall also be paid, in addition, six years' wages as additional compensation. The compensation shall be paid to the workmen before 31.5.1997. The gratuity amount payable to the workmen shall be paid in addition.

(1996) 2 Supreme Court Cases 594
(BEFORE KULDIP SINGH AND S. SAGHIR AHMAD, J.J)

DR. B.L. WADEHRA
Versus
UNION OF INDIA AND OTHERS

Writ Petition (C) No.286 of 1994, decided on March 1, 1996

In the light of the facts; and circumstances noticed above and also bring in view the suggestions made by the learned counsel assisting us in the petition the following directions:

1. We approve the experimental schemes placed before this Court by MCD and NDMC whereunder certain localities have been selected for distribution of polythene bags, door to door collection of garbage and its disposal.

We direct the MCD through Commissioner appointed under Section 54 of the Delhi Act and all other officers of the MCD (particularly Mr Narang and Mr Tirath Raj, Joint Directors) to have the city of Delhi scavenged and cleaned everyday. The garbage/ waste shall be lifted from collection centres every day and transported to the designated place for disposal.

All receptacles/collection centres shall be kept clean and tidy everyday. The garbage/rubbish shall not be found spread around collection centres and on the roads.

We issue similar directions to the NDMC through S/Shri Baleshwar Rai, Administrator, Lal Chand, Chief Sanitary Inspector, Dr G.S. Thind, Deputy Medical Officer of Health and Dr V.N. Reu, Chief Medical Officer.

2. We direct Government of India, through Secretary, Ministry of Health, Government of National Capital Territory of Delhi through

Secretary, Medical and Public Health, MCD through its Commissioner and NDMC through its Administrator to construct and install incinerators in all the hospitals/nursing homes, with 50 beds and above under their administrative control. This may be done preferably within nine months. A responsible officer of each of these authorities shall file an affidavit in this Court within two months indicating the progress made in this respect.

3. We direct the All India Institute of Medical Sciences, New Delhi through its Director to install sufficient number of incinerators, or equally effective alternate, to dispose of the hospital waste. The Director shall file an affidavit within two months to indicate the progress made in this respect.

4. We direct the MCD and NDMC to issue notices to all the private hospitals/nursing homes in Delhi to make their own arrangements for the disposal of their garbage and hospital waste. They be asked to construct, their own incinerators. In case these hospitals are permitted to use facilities (for collection, transportation and disposal of garbage provided by the MCD and NDMC then they may be asked to pay suitable charge for the service rendered in accordance with law.

5. We direct the Central Pollution Control Board and the Delhi pollution Committee to regularly send its inspection teams in different areas of Delhi/New Delhi to ascertain that the collection, transportation and disposal of garbage/waste is carried out satisfactorily. The Board and the Committee shall file the reports in this Court by way affidavit after every two months for a period of two years.

6. We direct the Government of the National Capital Territory of Delhi to appoint Municipal Magistrates (Metropolitan Magistrate) under Section 469 of the Delhi Act and Section 375 of the New Delhi Act for the trial of offence under these Acts. Residents of Delhi be educated through Doordarshan and by way of announcements in the localities that they shall be liable for penalty in case they violate any provisions of the Act in the matter of collecting and disposal of garbage and other wastes.

7. We direct Doordarshan through its Director General to undertake, a programme of educating the residents of Delhi regarding their civic duties under the Delhi Act and the New Delhi Act. This shall be done by making appropriate announcements,

displays on the television. The residents of Delhi shall be educated regarding their duties under Sections 354, 356 and 357 of the Delhi Act and similar duties under the New Delhi Act. They shall also be informed about the penalties which can be imposed under Section 465 of the Delhi Act and similar provision, under the New Delhi Act. The MCD and the NDMC shall also have announcements made by way of public address system in various area in Delhi informing the residents of their duties and obligations under the Delhi Act and the New Delhi Act.

8. The MCD has placed order for the supply of about 200 tippers with the Ordnance Vehicle Factory, Jabalpur (Government of India) in May 1995. The tippers have not as yet been supplied. We direct Secretary, Ministry of Defence Production, Government of India, to have the tippers supplied to the MCD as expeditiously as possible and preferably within three months. The Secretary shall file an affidavit in this Court within six weeks indicating the progress made in this respect.

9. The MCD has indicated that three SLF sites have already been approved by the Technical Committee of the DDA but the same have not been handed over to the MCD by the Development Commissioner, Government of NCT of Delhi. Since Bhatti mines are situated within the ridge area, we do not permit the same to be utilised for the disposal of the solid waste as at present. We, however, direct the Development Commissioner, Government of NCT, Delhi to hand over the two sites near Badarpur on Jaitpur/Tejpur quarry pits and Mandi village near Jaunpur quarry pits. The sites shall be handed over to the MCD within three months. The Development Commissioner shall file an affidavit in this Court before 31-3-1996 indicating the progress made in this respect.

10. The compost plant at Okhla be revived and put into operation. The MCD shall start operating the plant, if not already operating, with effect from 1-6-1996. The MCD shall also examine the construction of four additional compost plants as recommended by Jagmohan Committee. The MCD shall file an affidavit in this Court within six weeks indicating the progress made in restarting the Okhla compost plant and in the construction of four new plants.

11. The MCD shall not use the filled-up SLFs for any other purpose except forestry. There are twelve such sites including Rajiv Gandhi Smriti Van. We direct the MCD to develop forests and gardens on these 12 sites. The work of afforestation shall be undertaken by the

MCD with effect from 1-4-1996. An affidavit shall be filed by the end of April indicating the progress made in this respect.

12. The MCD and NDMC shall construct/install additional garbage collection centres in the form of dhalaos/trolley*steelbins within four months. An affidavit in this respect shall be filed by a responsible officer of each of these authorities within two months indicating the progress.

13. We direct the Union of India and NCT, Delhi Administration through their respective appropriate Secretaries to consider the request from MCD and NDMC for financial assistance in a just and fair manner. These Governments shall consider the grant of financial assistance to the MCD and NDMC by way of subvention or any other manner to enable these authorities to fulfil their obligations under law as directed by us.

14. After some time it may not be possible to dispose of garbage and solid waste by 'SLF' method due to non-availability of sites. We direct the NCT, Delhi Administration through its Chief Secretary and also the MCD and NDMC to join hands and engage an expert body like NEERI to find out alternate method/methods of garbage and solid waste disposal. The NCT, Delhi Administration shall file affidavit in this Court within two months indicating progress made in this respect.

